

CLOSED, DISCMAG, JURY, PATENT

**U.S. District Court [LIVE]  
Eastern District of TEXAS LIVE (Marshall)  
CIVIL DOCKET FOR CASE #: 2:06-cv-00506-TJW-CE**

Rembrandt Technologies, LP v. Comcast Corporation et al  
Assigned to: Judge T. John Ward  
Referred to: Magistrate Judge Charles Everingham  
Cause: 35:271 Patent Infringement

Date Filed: 11/30/2006  
Jury Demand: Both  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff****Rembrandt Technologies, LP**

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V.

**Defendant**

**Comcast Corporation**

**Defendant**

**Comcast Cable Communications,  
LLC**

**Defendant**

**Comcast of Plano, LP**

**Movant**

**Coxcom, Inc.,**

**Counter Claimant**

**Comcast Corporation**

represented by **Jennifer Haltom Doan**  
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**Counter Claimant**

**Comcast Cable Communications,  
 LLC**

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*LEAD ATTORNEY*  
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**Counter Claimant**

**Comcast of Plano, LP**

represented by **Jennifer Haltom Doan**  
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V.

**Counter Defendant**

**Rembrandt Technologies, LP**

represented by **Brooke Ashley-May Taylor**  
 (See above for address)  
*ATTORNEY TO BE NOTICED*

**Joseph Samuel Grinstein**  
 (See above for address)  
*ATTORNEY TO BE NOTICED*

**Matthew R Berry**  
 (See above for address)  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
11/30/2006	<a href="#"><u>1</u></a>	COMPLAINT with JURY DEMAND against Comcast Corporation, Comcast Cable Communications, LLC, Comcast of Plano, LP (Filing fee \$ 350.) , filed by Rembrandt Technologies, LP. (Attachments: # <a href="#"><u>1</u></a> # <a href="#"><u>2</u></a> # <a href="#"><u>3</u></a> # <a href="#"><u>4</u></a> # <a href="#"><u>5</u></a> Civil Cover Sheet)(ehs, ) (Entered: 12/01/2006)
11/30/2006	<a href="#"><u>2</u></a>	CORPORATE DISCLOSURE STATEMENT filed by Rembrandt Technologies, LP (ehs, ) (Entered: 12/01/2006)
11/30/2006	<a href="#"><u>3</u></a>	Form mailed to Commissioner of Patents and Trademarks. (ehs, ) (Entered: 12/01/2006)
11/30/2006		E-GOV SEALED SUMMONS Issued as to Comcast Corporation, Comcast Cable Communications, LLC, Comcast of Plano, LP. (ehs, ) (Entered: 12/01/2006)
12/01/2006	<a href="#"><u>4</u></a>	AMENDED COMPLAINT ( <i>First Amended Complaint</i> ) against all defendants, filed by Rembrandt Technologies, LP. (Attachments: # (1) Exhibit A# (2) Exhibit B# (3) Exhibit C# (4) Exhibit D# (5) Exhibit E)

		(DeRieux, Elizabeth) Additional attachment(s) added on 12/1/2006 (ehs, ). (Entered: 12/01/2006)
12/04/2006		Filing fee: \$ 350.00, receipt number 2-1-2127 (ch, ) (Entered: 12/05/2006)
12/07/2006	<a href="#"><u>5</u></a>	NOTICE of Attorney Appearance by Robert M Parker on behalf of Rembrandt Technologies, LP (Parker, Robert) (Entered: 12/07/2006)
12/07/2006	<a href="#"><u>6</u></a>	NOTICE of Attorney Appearance by Robert Christopher Bunt on behalf of Rembrandt Technologies, LP (Bunt, Robert) (Entered: 12/07/2006)
12/07/2006	<a href="#"><u>7</u></a>	NOTICE of Attorney Appearance by Charles Ainsworth on behalf of Rembrandt Technologies, LP (Ainsworth, Charles) (Entered: 12/07/2006)
12/12/2006	<a href="#"><u>8</u></a>	NOTICE of Attorney Appearance by Franklin Jones, Jr on behalf of Rembrandt Technologies, LP (Jones, Franklin) (Entered: 12/12/2006)
12/12/2006	<a href="#"><u>9</u></a>	E-GOV SEALED SUMMONS Returned Executed by Rembrandt Technologies, LP. Comcast Cable Communications, LLC served on 12/4/2006, answer due 12/26/2006. (ehs, ) (Entered: 12/15/2006)
12/12/2006	<a href="#"><u>10</u></a>	E-GOV SEALED SUMMONS Returned Executed by Rembrandt Technologies, LP. Comcast Corporation served on 12/4/2006, answer due 12/26/2006. (ehs, ) (Entered: 12/15/2006)
12/21/2006	<a href="#"><u>11</u></a>	ANSWER to Amended Complaint, COUNTERCLAIM against Rembrandt Technologies, LP by Comcast Corporation, Comcast Cable Communications, LLC, Comcast of Plano, LP.(Doan, Jennifer) (Entered: 12/21/2006)
12/26/2006	<a href="#"><u>12</u></a>	E-GOV SEALED SUMMONS Returned Executed by Rembrandt Technologies, LP. Comcast of Plano, LP served on 12/13/2006, answer due 1/2/2007. (ehs, ) (Entered: 12/27/2006)
01/03/2007	<a href="#"><u>13</u></a>	NOTICE of Attorney Appearance by Matthew R. Berry on behalf of Rembrandt Technologies, LP, Rembrandt Technologies, LP (Berry, Matthew) (Entered: 01/03/2007)
01/03/2007	<a href="#"><u>14</u></a>	NOTICE of Attorney Appearance by Brooke Ashley-May Taylor on behalf of Rembrandt Technologies, LP, Rembrandt Technologies, LP (Taylor, Brooke) (Entered: 01/03/2007)
01/03/2007	<a href="#"><u>15</u></a>	NOTICE of Attorney Appearance by Joseph Samuel Grinstein on behalf of Rembrandt Technologies, LP, Rembrandt Technologies, LP (Grinstein, Joseph) (Entered: 01/03/2007)
01/09/2007	<a href="#"><u>16</u></a>	NOTICE of Attorney Appearance by Tibor L. Nagy on behalf of Rembrandt Technologies, LP (Nagy, Tibor) (Entered: 01/09/2007)
01/09/2007	<a href="#"><u>17</u></a>	<i>Plaintiff's</i> ANSWER to Counterclaim by Rembrandt Technologies, LP. (Tribble, Max) (Entered: 01/09/2007)
01/12/2007	<a href="#"><u>21</u></a>	APPLICATION to Appear Pro Hac Vice by Attorney Edgar G Sargent for Rembrandt Technologies, LP. (ch, ) (Entered: 01/19/2007)

01/12/2007		Pro Hac Vice Filing fee paid by Sargent; Fee: \$25, receipt number: 2-1-2206 (ch, ) (Entered: 01/19/2007)
01/15/2007	<a href="#">18</a>	NOTICE of Attorney Appearance by Otis W Carroll, Jr on behalf of Rembrandt Technologies, LP (Carroll, Otis) (Entered: 01/15/2007)
01/15/2007	<a href="#">19</a>	NOTICE of Attorney Appearance by Collin Michael Maloney on behalf of Rembrandt Technologies, LP (Maloney, Collin) (Entered: 01/15/2007)
01/15/2007	<a href="#">20</a>	NOTICE of Attorney Appearance by James Patrick Kelley on behalf of Rembrandt Technologies, LP (Kelley, James) (Entered: 01/15/2007)
03/09/2007	<a href="#">22</a>	NOTICE by Coxcom, Inc., of <i>Filing Motion for Transfer and Consolidation of Rembrandt Technologies, LP Patent Litigation Pursuant to 28 U.S.C. 1407</i> (Attachments: # <a href="#">1</a> MDL Motion for Transfer and Consolidation# <a href="#">2</a> Motion Ex. A# <a href="#">3</a> Motion Ex. B# <a href="#">4</a> MDL Memorandum# <a href="#">5</a> MDL Exhibit List# <a href="#">6</a> MLD Notice of Appearance# <a href="#">7</a> MDL Corporate Disclosure# <a href="#">8</a> MDL Certificate of Service)(Stockwell, Mitchell) (Entered: 03/09/2007)
03/09/2007	<a href="#">23</a>	Additional Attachments to Main Document: <a href="#">22</a> Notice (Other), Notice (Other).. (Attachments: # <a href="#">1</a> MDL Ex. 1# <a href="#">2</a> MDL Ex. 2# <a href="#">3</a> MDL Ex. 3# <a href="#">4</a> MDL Ex. 4# <a href="#">5</a> MDL Ex. 5# <a href="#">6</a> MDL Ex. 6# <a href="#">7</a> MDL Ex. 7# <a href="#">8</a> MDL Ex. 8# <a href="#">9</a> MDL Ex. 9# <a href="#">10</a> MDL Ex. 10# <a href="#">11</a> MDL Ex. 11# <a href="#">12</a> MDL Ex. 12# <a href="#">13</a> MDL Ex. 13# <a href="#">14</a> MDL Ex. 14# <a href="#">15</a> MDL Ex. 15# <a href="#">16</a> MDL Ex. 16# <a href="#">17</a> MDL Ex. 17# <a href="#">18</a> MDL Ex. 18# <a href="#">19</a> MDL Ex. 19# <a href="#">20</a> MDL Ex. 20# <a href="#">21</a> MDL Ex. 21# <a href="#">22</a> MDL Ex. 22# <a href="#">23</a> MDL Ex. 23# <a href="#">24</a> MDL Ex. 24# <a href="#">25</a> MDL Ex. 25# <a href="#">26</a> MDL Ex. 26# <a href="#">27</a> MDL Ex. 27# <a href="#">28</a> MDL Ex. 28# <a href="#">29</a> MDL Ex. 29# <a href="#">30</a> MDL Ex. 30# <a href="#">31</a> MDL Ex. 31# <a href="#">32</a> MDL Ex. 32# <a href="#">33</a> MDL Ex. 33# <a href="#">34</a> MDL Ex. 34# <a href="#">35</a> MDL Ex. 35# <a href="#">36</a> MDL Ex. 35# <a href="#">37</a> MDL Ex. 37# <a href="#">38</a> MDL Ex. 38# <a href="#">39</a> MDL Ex. 39# <a href="#">40</a> MDL Ex. 40# <a href="#">41</a> MDL Ex. 41# <a href="#">42</a> MDL Ex. 42# <a href="#">43</a> MDL Ex. 43)(Stockwell, Mitchell) (Entered: 03/09/2007)
03/30/2007	<a href="#">24</a>	NOTICE by Rembrandt Technologies, LP <i>Joint Notice of Conference Regarding Proposed Discovery Order and Docket Control Order</i> (Attachments: # <a href="#">1</a> Exhibit Discovery Order and Docket Control Order) (Taylor, Brooke) (Entered: 03/30/2007)
04/05/2007	<a href="#">25</a>	NOTICE by Rembrandt Technologies, LP re <a href="#">23</a> Additional Attachments to Main Document,,, <a href="#">22</a> Notice (Other), Notice (Other) <i>Notice of Filing Opposition to CoxComs Motion for Transfer and Consolidation</i> (Attachments: # <a href="#">1</a> Exhibit Rembrandts Brief in Opposition# <a href="#">2</a> Exhibit Exhibit list# <a href="#">3</a> Exhibit Opposition Brief Exh 1# <a href="#">4</a> Exhibit Opposition Brief Exh 2# <a href="#">5</a> Exhibit Opposition Brief Exh 3# <a href="#">6</a> Exhibit Opposition Brief Exh 4# <a href="#">7</a> Exhibit Opposition Brief Exh 5# <a href="#">8</a> Exhibit Opposition Brief Exh 6# <a href="#">9</a> Exhibit Opposition Brief Exh 7# <a href="#">10</a> Exhibit Opposition Brief Exh 8# <a href="#">11</a> Exhibit Opposition Brief Exh 9# <a href="#">12</a> Exhibit Opposition Brief Exh 10# <a href="#">13</a> Exhibit Opposition Brief Exh 11# <a href="#">14</a> Exhibit Opposition Brief Exh 12# <a href="#">15</a> Exhibit Opposition Brief Exh 13# <a href="#">16</a> Exhibit Response to CoxComs Motion# <a href="#">17</a> Exhibit Reason Why Oral Argument Should Be Heard# <a href="#">18</a> Exhibit Proof of Service)(Taylor,



		Brooke) (Entered: 04/05/2007)
04/11/2007	<a href="#">26</a>	NOTICE of Attorney Appearance by Andrew Wesley Spangler on behalf of Rembrandt Technologies, LP (Spangler, Andrew) (Entered: 04/11/2007)
04/11/2007	<a href="#">27</a>	NOTICE of Attorney Appearance by Sidney Calvin Capshaw, III on behalf of Rembrandt Technologies, LP (Capshaw, Sidney) (Entered: 04/11/2007)
04/18/2007	<a href="#">28</a>	ORDER - referring case to Magistrate Judge Charles Everingham in accordance with the assignments made by General Order 07-03. The magistrate judge shall conduct pre-trial proceedings pursuant to 28 USC 636. Signed by Judge T. John Ward on 4/18/07. (ch, ) (Entered: 04/18/2007)
04/18/2007	<a href="#">29</a>	NOTICE by Coxcom, Inc., <i>Notice of Development</i> (Attachments: # <a href="#">1</a> Notice of Hearing)(Gardner, Allen) (Entered: 04/18/2007)
04/19/2007	<a href="#">30</a>	ORDER - REGARDING THE PROTECTIVE ORDER AND DOCUMENT PRODUCTION. Signed by Judge Charles Everingham on 4/19/07. (ch, ) (Entered: 04/19/2007)
04/19/2007	<a href="#">31</a>	DOCKET CONTROL ORDER Respond to Amended Pleadings 11/30/07. Amended Pleadings due by 11/16/2007. Discovery due by 5/14/2008. Joinder of Parties due by 5/3/2007. Claims Construction Hearing set for 2/13/2008 - 2/14/08 9:00 AM before Judge T. John Ward. Motions in limine due by 7/21/2008. Proposed Pretrial Order due by 7/21/2008. Jury Selection set for 8/4/2008 9:00AM before Judge T. John Ward. Pretrial Conference set for 7/24/2008 9:30 AM before Judge T. John Ward. Privilege Logs are to be exchanged by 6/4/07. All other deadlines are set forth herein. Signed by Judge Charles Everingham on 4/19/07. (ch, ) (Entered: 04/19/2007)
04/24/2007	<a href="#">32</a>	NOTICE by Rembrandt Technologies, LP <i>Of Proposed Protective Order</i> (Attachments: # <a href="#">1</a> Text of Proposed Order Protective Order)(Taylor, Brooke) CORRECTED PROPOSED PROTECTIVE ORDER added on 4/25/2007 (mpv, ). Modified on 4/25/2007 (mpv, ). (Entered: 04/24/2007)
04/24/2007	<a href="#">33</a>	NOTICE by Rembrandt Technologies, LP <i>Re Electronic Production</i> (Taylor, Brooke) (Entered: 04/24/2007)
04/25/2007		NOTICE re <a href="#">32</a> Notice (Other) CORRECTED PROPOSED PROTECTIVE ORDER ADDED BY CLERK (mpv, ) (Entered: 04/25/2007)
04/30/2007	<a href="#">34</a>	Minute Entry for proceedings held before Judge Charles Everingham : Scheduling Conference held on 4/30/2007. (Court Reporter Debbie Latham.)(delat, ) (Entered: 04/30/2007)
05/03/2007		TRANSCRIPT of Proceedings Scheduling Conference held on 4/3/07 before Judge Chad Everingham. Court Reporter: Transcriber/Susan Simmons. (lss) (Entered: 05/03/2007)



05/04/2007	<a href="#">36</a>	PROTECTIVE ORDER. Signed by Judge Charles Everingham on 5/4/07. (ehs, ) (Entered: 05/04/2007)
05/07/2007	<a href="#">37</a>	NOTICE of Disclosure by Rembrandt Technologies, LP (Berry, Matthew) (Entered: 05/07/2007)
05/07/2007	<a href="#">38</a>	NOTICE of Disclosure by Comcast Corporation, Comcast Cable Communications, LLC (Doan, Jennifer) (Entered: 05/07/2007)
05/23/2007	<a href="#">39</a>	NOTICE of Disclosure by Rembrandt Technologies, LP (Taylor, Brooke) (Entered: 05/23/2007)
06/04/2007	<a href="#">40</a>	Joint MOTION to Amend/Correct <i>Docket Control Order</i> by Rembrandt Technologies, LP. (Attachments: # <a href="#">1</a> Text of Proposed Order Order Granting Motion to Amend)(Taylor, Brooke) (Entered: 06/04/2007)
06/06/2007	<a href="#">41</a>	ORDER granting <a href="#">40</a> Motion to Amend/Correct. Docket Control Order is amended to move date to exchange privilege logs to 7/10/07. Signed by Judge Charles Everingham on 6/5/07. (ch, ) (Entered: 06/06/2007)
06/12/2007	<a href="#">42</a>	NOTICE of Disclosure by Rembrandt Technologies, LP <i>Regarding Compliance with Paragraph 3(b) of the Discovery Order</i> (Berry, Matthew) (Entered: 06/12/2007)
06/21/2007	<a href="#">43</a>	NOTICE by Comcast Corporation, Comcast Cable Communications, LLC, Comcast of Plano, LP <i>Notice of Multi-District Litigation Developments Pursuant to Local Rule CV-42</i> (Attachments: # <a href="#">1</a> Exhibit A)(Doan, Jennifer) (Entered: 06/21/2007)
06/21/2007	<a href="#">44</a>	NOTICE by Comcast Corporation, Comcast Cable Communications, LLC, Comcast of Plano, LP <i>of Multi-District Litigation Developments Pursuant to Local Rule CV-42</i> (Attachments: # <a href="#">1</a> Exhibit A)(Gardner, Allen) (Entered: 06/21/2007)
06/25/2007	<a href="#">45</a>	Interdistrict transfer to the District of Delaware, Wilmington DE. Pursuant to letter Elizabeth Dinan was notified. Certified copy of Docket Sheet, Complaint, Transfer Order and letter were mailed to the Federal Bldg, Lockbox 18,844 N. King Street, Wilmington, DE (ch, ) Additional attachment(s) added on 6/28/2007 (ch, ). Additional attachment(s) added on 6/28/2007 (ch, ). Modified on 6/28/2007 (ch, ). (Entered: 06/27/2007)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
07/02/2007 13:27:26			
<b>PACER Login:</b>	ud0037	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	2:06-cv-00506-TJW-CE

<b>Billable Pages:</b>	5	<b>Cost:</b>	0.40
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# **SEALED DOCUMENT**

# **SEALED DOCUMENT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

REMBRANDT TECHNOLOGIES, LP	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 2-06CV-506-TJW
	§	
COMCAST CORPORATION; COMCAST	§	Jury Demand
CABLE COMMUNICATIONS, LLC; AND	§	
COMCAST OF PLANO, LP	§	
	§	
Defendant.	§	

**DEFENDANTS' ANSWER AND COUNTERCLAIMS**

Defendants Comcast Corporation and Comcast Cable Communications, LLC ("Comcast Cable") (collectively, "Comcast") answer Plaintiff Rembrandt Technologies, LP's ("Rembrandt") first amended complaint as follows:

1. Comcast is without sufficient knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

2. Comcast denies the allegations in this paragraph regarding Comcast of Plano, LP. Comcast of Plano no longer exists. Comcast of Plano was a limited partnership organized under the laws of Delaware, with its principal place of business at 1500 Market Street, Philadelphia, Pennsylvania. Comcast Corp. and Comcast Cable deny that they regularly conduct and transact business in the Eastern District of Texas. Comcast admits the remaining allegations in this paragraph.

3. This paragraph does not require a response.

4. Comcast denies that it has committed acts of patent infringement in the Eastern District of Texas. Comcast Corp. and Comcast Cable deny that they are either present or do business in this District and deny that the Court has personal jurisdiction over them.

5. Comcast denies that it has committed acts of patent infringement in the Eastern District of Texas. Comcast Corp. and Comcast Cable deny that they are either present or do

business in this District, and also deny that they have minimum contacts with this District. Comcast Corp. and Comcast Cable therefore deny that venue is proper in this judicial district.

6. This paragraph does not require a response.

7. Comcast is without sufficient knowledge or information sufficient to form a belief as to the truth of the allegations regarding Rembrandt's ownership and right to enforce U.S. Patent No. 5,008,903 ("the '903 patent").

8. Comcast admits that the United States Patent and Trademark Office issued the '903 patent on April 16, 1991. Comcast is without sufficient knowledge to form a belief as to the truth of whether the '903 patent was "duly and legally issued" because these terms are not defined.

9. Denied.

10. Denied.

11. This paragraph does not require a response.

12. Comcast is without sufficient knowledge or information sufficient to form a belief as to the truth of the allegations regarding Rembrandt's ownership and right to enforce U.S. Patent No. 5,710,761 ("the '761 patent").

13. Comcast admits that the United States Patent and Trademark Office issued the '761 patent on January 20, 1998. Comcast is without sufficient knowledge to form a belief as to the truth of whether the '761 patent was "duly and legally issued" because these terms are not defined.

14. Denied.

15. Denied.

16. This paragraph does not require a response.

17. Comcast is without sufficient knowledge or information sufficient to form a belief as to the truth of the allegations regarding Rembrandt's ownership and right to enforce U.S. Patent No. 5,778,234 ("the '234 patent").

18. Comcast admits that the United States Patent and Trademark Office issued the

'234 patent on July 7, 1998. Comcast is without sufficient knowledge to form a belief as to the truth of whether the '234 patent was "duly and legally issued" because these terms are not defined.

19. Denied.

20. Denied.

21. This paragraph does not require a response.

22. Comcast is without sufficient knowledge or information sufficient to form a belief as to the truth of the allegations regarding Rembrandt's ownership and right to enforce U.S. Patent No. 6,131,159 ("the '159 patent).

23. Comcast admits that the United States Patent and Trademark Office issued the '159 patent on October 10, 2000. Comcast is without sufficient knowledge to form a belief as to the truth of whether the '159 patent was "duly and legally issued" because these terms are not defined.

24. Denied.

25. Denied.

26. This paragraph does not require a response.

27. Comcast is without sufficient knowledge or information sufficient to form a belief as to the truth of the allegations regarding Rembrandt's ownership and right to enforce U.S. Patent No. 6,950,444 ("the '444 patent").

28. Comcast admits that the United States Patent and Trademark Office issued the '444 patent on September 27, 2005. Comcast is without sufficient knowledge to form a belief as to the truth of whether the '444 patent was "duly and legally issued" because these terms are not defined.

29. Denied.

30. Denied.

Except what is specifically admitted here, Comcast denies each and every allegation in the Complaint.



**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

**(Lack of Personal Jurisdiction)**

**Counts I-V**

1. This Court lacks personal jurisdiction over Comcast.

**SECOND AFFIRMATIVE DEFENSE**

**(Improper Venue)**

**Counts I-V**

2. Venue is improper in this judicial district.

**THIRD AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

**Counts I-V**

3. Counts I-V of the Complaint fail to state a claim upon which relief can be granted.
4. Comcast has not infringed any claim of any of the '903, 159, '761, '234, '444 patents ("Rembrandt's asserted patents").
5. Comcast has not caused, with knowledge, specific intent, or otherwise, equipment suppliers, service providers, and/or others to infringe any claim of any of Rembrandt's asserted patents.
6. Rembrandt has not been damaged in any amount, manner, or at all by reason of any act alleged against Comcast and therefore the relief prayed for cannot be granted.
7. Rembrandt is not entitled to permanent injunctive relief.

**FOURTH AFFIRMATIVE DEFENSE**

**(Invalidity)**

**Counts I-V**

8. On information and belief, Rembrandt's asserted patents are invalid at least for failure to satisfy one or more of the conditions of Title 35 United States Code, including without limitation, Sections 101, 102, 103, and 112 thereof.

**FIFTH AFFIRMATIVE DEFENSE**

**(Misuse)**

**Counts I-V**

9. On information and belief, Rembrandt's asserted patents have been misused by Rembrandt by the commencement and maintenance of this action, in bad faith, without probable cause in knowing, or when it should have known, that it had no valid claim of patent infringement against Comcast, and for Rembrandt's enforcement of said patents and demands for royalties and other damages with respect to products not covered by its patents.

**SIXTH AFFIRMATIVE DEFENSE**

**(Laches)**

**Counts I-V**

10. Rembrandt's claims are barred, in whole or in part, by the doctrine of laches.

11. More specifically, and without limiting the generality of the foregoing paragraph, Rembrandt has accused devices that practice one or more of the DOCSIS standards of infringing the patents-in-suit.

12. Comcast and/or its predecessors in interest have used products or services that comply with one or more of the DOCSIS standards since no later than May of 1998. Rembrandt knew or reasonably should have known that Comcast and/or its predecessors in interest had used such products or services at that time and since. However, Rembrandt failed to assert its current claims that Comcast infringes the patents-in-suit until November of 2006.

13. Rembrandt's delay in filing suit is unreasonable and inexcusable, and has caused Comcast material evidentiary and/or economic prejudice. Rembrandt's claims are accordingly barred by the doctrine of laches.

**COUNTERCLAIMS**

Defendant and Counterclaimant Comcast asserts the following counterclaims against

Rembrandt:

1. Comcast Corp. is a corporation incorporated under the laws of Pennsylvania, having its principal place of business at 1500 Market Street, Philadelphia, Pennsylvania. Comcast Cable is a corporation incorporated under the laws of Delaware having its principal place of business at 1500 Market Street, Philadelphia, Pennsylvania.

2. Comcast is informed and believes, and therefore alleges, that Rembrandt is a corporation incorporated under the laws of the State of New Jersey, with its principal place of business in Bala Cynwyd, Pennsylvania.

3. In its Counterclaims, Comcast seeks declarations of invalidity and non-infringement of Rembrandt's asserted patents. As such, jurisdiction is proper pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, under federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), and as arising under the Patent Laws of the United States, Title 35, United States Code.

4. This Court has personal jurisdiction over Rembrandt.

5. Venue in this district is proper with regards to this counterclaim under 28 U.S.C. §§ 1391 and 1400.

### **FIRST COUNTERCLAIM FOR RELIEF**

#### **Counterclaim for Declaratory Judgment of Non-Infringement, Invalidity, and Unenforceability of U.S. Patent No. 5,008,903**

6. Comcast realleges and incorporates by reference Paragraphs 1 through 5 above.

7. As a result of the charges of infringement against Comcast, an actual controversy exists as to infringement, invalidity, and misuse of U.S. Patent No. 5,008,903.

8. Comcast realleges and incorporates by reference its responses as set forth under the headings "Answer" and "Affirmative Defenses" herein.

9. Comcast has not infringed, and is not now infringing, U.S. Patent No. 5,008,903.

10. Comcast has not caused others to infringe, and is not now causing others to infringe, Rembrandt's asserted patents.

11. Rembrandt's asserted patents are invalid and/or void under at least 35 U.S.C. §§ 101, 102, 103, and 112.

12. Rembrandt has committed patent misuse by bringing this action with knowledge that Rembrandt's asserted patents are invalid and/or not infringed.

13. This counterclaim is exceptional under 35 U.S.C. § 285 and Comcast is entitled to an award of its reasonable attorneys' fees.

### **SECOND COUNTERCLAIM FOR RELIEF**

#### **Counterclaim for Declaratory Judgment of Non-Infringement, Invalidity, and Unenforceability of U.S. Patent No. 5,710,761**

14. Comcast realleges and incorporates by reference Paragraphs 1 through 13 above.

15. As a result of the charges of infringement against Comcast, an actual controversy exists as to infringement, invalidity, and misuse of U.S. Patent No. 5,710,761.

16. Comcast realleges and incorporates by reference its responses as set forth under the headings "Answer" and "Affirmative Defenses" herein.

17. Comcast has not infringed, and is not now infringing, U.S. Patent No. 5,710,761.

18. Comcast has not caused others to infringe, and is not now causing others to infringe, Rembrandt's asserted patents.

19. Rembrandt's asserted patents are invalid and/or void under at least 35 U.S.C. §§ 101, 102, 103, and 112.

20. Rembrandt has committed patent misuse by bringing this action with knowledge that Rembrandt's asserted patents are invalid and/or not infringed.

21. This counterclaim is exceptional under 35 U.S.C. § 285 and Comcast is entitled to an award of its reasonable attorneys' fees.

**THIRD COUNTERCLAIM FOR RELIEF**

**Counterclaim for Declaratory Judgment of Non-Infringement, Invalidity, and Unenforceability of U.S. Patent No. 5,778,234**

22. Comcast realleges and incorporates by reference Paragraphs 1 through 21 above.
23. As a result of the charges of infringement against Comcast, an actual controversy exists as to infringement, invalidity, and misuse of U.S. Patent No. 5,778,234.
24. Comcast realleges and incorporates by reference its responses as set forth under the headings “Answer” and “Affirmative Defenses” herein.
25. Comcast has not infringed, and is not now infringing, U.S. Patent No. 5,778,234.
26. Comcast has not caused others to infringe, and is not now causing others to infringe, Rembrandt’s asserted patents.
27. Rembrandt’s asserted patents are invalid and/or void under at least 35 U.S.C. §§ 101, 102, 103, and 112.
28. Rembrandt has committed patent misuse by bringing this action with knowledge that Rembrandt’s asserted patents are invalid and/or not infringed.
29. This counterclaim is exceptional under 35 U.S.C. § 285 and Comcast is entitled to an award of its reasonable attorneys’ fees.

**FOURTH COUNTERCLAIM FOR RELIEF**

**Counterclaim for Declaratory Judgment of Non-Infringement, Invalidity, and Unenforceability of U.S. Patent No. 6,131,159**

30. Comcast realleges and incorporates by reference Paragraphs 1 through 29 above.
31. As a result of the charges of infringement against Comcast, an actual controversy exists as to infringement, invalidity, and misuse of U.S. Patent No. 6,131,159.
32. Comcast realleges and incorporates by reference its responses as set forth under the headings “Answer” and “Affirmative Defenses” herein.
33. Comcast has not infringed, and is not now infringing, U.S. Patent No. 6,131,159.

34. Comcast has not caused others to infringe, and is not now causing others to infringe, Rembrandt's asserted patents.

35. Rembrandt's asserted patents are invalid and/or void under at least 35 U.S.C. §§ 101, 102, 103, and 112.

36. Rembrandt has committed patent misuse by bringing this action with knowledge that Rembrandt's asserted patents are invalid and/or not infringed.

37. This counterclaim is exceptional under 35 U.S.C. § 285 and Comcast is entitled to an award of its reasonable attorneys' fees.

#### **FIFTH COUNTERCLAIM FOR RELIEF**

##### **Counterclaim for Declaratory Judgment of Non-Infringement, Invalidity, and Unenforceability of U.S. Patent No. 6,950,444**

38. Comcast realleges and incorporates by reference Paragraphs 1 through 37 above.

39. As a result of the charges of infringement against Comcast, an actual controversy exists as to infringement, invalidity, and misuse of U.S. Patent No. 6,950,444.

40. Comcast realleges and incorporates by reference its responses as set forth under the headings "Answer" and "Affirmative Defenses" herein.

41. Comcast has not infringed, and is not now infringing, U.S. Patent No. 6,950,444.

42. Comcast has not caused others to infringe, and is not now causing others to infringe, Rembrandt's asserted patents.

43. Rembrandt's asserted patents are invalid and/or void under at least 35 U.S.C. §§ 101, 102, 103, and 112.

44. Rembrandt has committed patent misuse by bringing this action with knowledge that Rembrandt's asserted patents are invalid and/or not infringed.

45. This counterclaim is exceptional under 35 U.S.C. § 285 and Comcast is entitled to an award of its reasonable attorneys' fees.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), Comcast demands a trial by jury of all issues so triable in this action, including without limitation, those issues raised in the Complaint, Answer, Affirmative Defenses, and Counterclaims.

**PRAYER FOR RELIEF**

WHEREFORE, Comcast prays for judgment against Rembrandt as follows:

- A. For dismissal of Rembrandt's Complaint with prejudice and that the relief requested be denied;
- B. For a judgment declaring that no claim of the Rembrandt patent(s) has been infringed willfully, deliberately, or otherwise by Comcast;
- C. For a judgment declaring that each and every claim of the Rembrandt patent(s) is invalid;
- D. For an award of Comcast's reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and
- G. For such other and further relief as the Court may deem just and fair.

Respectfully submitted,

\_\_\_\_\_  
/s/ Jennifer Haltom Doan  
Jennifer Haltom Doan, Esq.  
Texas Bar No. 08809050  
John P. Perkins, III  
Texas Bar No. 24043457  
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6500 N. Summerhill Road, Suite 1A  
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**Attorneys for Defendants  
COMCAST CORPORATION,  
COMCAST CABLE COMMUNICATIONS,  
LLC**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by certified mail, return receipt requested, on this 21st day of December 2006.

/s/ Jennifer Haltom Doan  
Jennifer Haltom Doan

# **SEALED DOCUMENT**

# UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

TEXAS

## APPEARANCE

REMBRANDT TECHNOLOGIES, LP v. COMCAST CORP. , et. al. Case Number: 2-06CV-506-TJW

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for  
REMBRANDT TECHNOLOGIES, LP

I certify that I am admitted to practice in this court.

1/3/2007  
Date

/s/ Matthew R. Berry  
Signature  
Matthew R. Berry 37364  
Print Name Bar Number  
1201 Third Avenue, Suite 3800  
Address  
Seattle WA 98101  
City State Zip Code  
(206) 516-3804 (206) 516-3883  
Phone Number Fax Number

# UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

TEXAS

## APPEARANCE

REMBRANDT TECHNOLOGIES, LP v. COMCAST CORP. , et. al. Case Number: 2-06CV-506-TJW

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for  
REMBRANDT TECHNOLOGIES, LP

I certify that I am admitted to practice in this court.

1/3/2007

Date

/s/ Brooke A. M. Taylor

Signature

Brooke A. M. Taylor

33190

Print Name

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1201 Third Avenue, Suite 3800

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Phone Number

Fax Number

UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

TEXAS

APPEARANCE

Rembrandt Technologies, LP v. Comcast Corp., et. al.

Case Number: 2-06-cv-506-TJW

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for

REMBRANDT TECHNOLOGIES, LP

I certify that I am admitted to practice in this court.

1/3/2007

Date

/s/ Joseph S. Grinstein

Signature

Joseph S. Grinstein

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Print Name

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(713) 654-3356

Phone Number

Fax Number

UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

TEXAS

APPEARANCE


REMBRANDT TECHNOLOGIES, LP v. COMCAST CORP., et al Case Number: 2-06CV-506-TJW

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for  
REMBRANDT TECHNOLOGIES, LP

I certify that I am admitted to practice in this court.

1/8/2007  
Date

  
Signature  
Tibor L. Nagy 24041562  
Print Name Bar Number  
590 Madison Avenue, 8th Floor  
Address  
New York NY 10022  
City State Zip Code  
(212) 336-8330 (212) 336-8340  
Phone Number Fax Number

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

REMBRANDT TECHNOLOGIES, LP )

*Plaintiff* )

v. )

COMCAST CORPORATION; COMCAST )  
CABLE COMMUNICATIONS, LLC; )  
and COMCAST OF PLANO, LP, )

*Defendants* )

Case No. 2-06CV-506-TJW

**JURY TRIAL REQUESTED**

**PLAINTIFF'S REPLY TO DEFENDANTS' COUNTERCLAIMS**

Plaintiff Rembrandt Technologies, LP ("Rembrandt") hereby responds to the Counterclaims of Defendants Comcast Corporation ("Comcast Corp."), Comcast Cable Communications, LLC ("Comcast Cable"), and Comcast of Plano, LP ("Comcast Plano") (collectively "Comcast") filed December 21, 2006. All allegations not expressly admitted are denied.

1. Admitted.

2. Admitted.

3. Rembrandt admits that this Court has jurisdiction over Comcast's Counterclaims.

The remaining allegations of this paragraph do not require a response.

4. Admitted.

5. Admitted.



**FIRST COUNTERCLAIM FOR RELIEF**

6. Rembrandt incorporates by reference its responses contained in Paragraphs 1 through 5 above.

7. Rembrandt admits that an actual controversy exists between the parties regarding U.S. Patent No. 5,008,903.

8. Paragraphs 1-30 of Comcast's Answer do not require a response. Rembrandt denies all allegations contained in Comcast's Affirmative Defenses.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

**SECOND COUNTERCLAIM FOR RELIEF**

14. Rembrandt incorporates by reference its responses contained in Paragraphs 1 through 13 above.

15. Rembrandt admits that an actual controversy exists between the parties regarding U.S. Patent No. 5,710,761.

16. Paragraphs 1-30 of Comcast's Answer do not require a response. Rembrandt denies all allegations contained in Comcast's Affirmative Defenses.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

**THIRD COUNTERCLAIM FOR RELIEF**

22. Rembrandt incorporates by reference its responses contained in Paragraphs 1 through 21 above.

23. Rembrandt admits that an actual controversy exists between the parties regarding U.S. Patent No. 5,778,234.

24. Paragraphs 1-30 of Comcast's Answer do not require a response. Rembrandt denies all allegations contained in Comcast's Affirmative Defenses.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

**FOURTH COUNTERCLAIM FOR RELIEF**

30. Rembrandt incorporates by reference its responses contained in Paragraphs 1 through 29 above.

31. Rembrandt admits that an actual controversy exists between the parties regarding U.S. Patent 6,131,159.

32. Paragraphs 1-30 of Comcast's Answer do not require a response. Rembrandt denies all allegations contained in Comcast's Affirmative Defenses.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

**FIFTH COUNTERCLAIM FOR RELIEF**

38. Rembrandt incorporates by reference its responses contained in Paragraphs 1 through 37 above.

39. Rembrandt admits that an actual controversy exists between the parties regarding U.S. Patent 6,950,444.

40. Paragraphs 1-30 of Comcast's Answer do not require a response. Rembrandt denies all allegations contained in Comcast's Affirmative Defenses.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

**JURY DEMAND**

This paragraph does not require a response.

**PRAYER FOR RELIEF**

Rembrandt denies that Comcast is entitled to any relief.

Dated: January 9, 2007.

**SUSMAN GODFREY L.L.P.**

By: /s/ Max L. Tribble, Jr.

Max L. Tribble, Jr.

State Bar No. 20213950

Email: mtribble@susmangodfrey.com

Susman Godfrey L.L.P.

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Main Fax: (212) 336-8340

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing instrument has been served on the following counsel of record, this 9th day of January, 2007, via email and in accordance with the FRCP:

Jennifer Haltom Doan  
jdoan@haltomdoan.com  
HALTOM AND DOAN LLP  
6500 North Summerhill Road  
Crown Executive Center, Suite 1 A  
Texarkana, TX 75505

Brian L. Ferrall  
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Leo Lam  
Mathew Werdegarr  
Eric MacMichael  
KEKER & VAN NEST, LLP  
710 Sansome Street  
San Francisco, CA 94111-1704  
*Attorneys for Comcast Corporation,  
Comcast Cable Communications, LLC and  
Comcast of Plano, LP*

/s/ Max L. Tribble, Jr.  
Max L. Tribble, Jr.

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

REMBRANDT TECHNOLOGIES, LP	§	
	§	
VS.	§	Civil Case No. 2:06-CV-506 TJW
	§	
COMCAST CORPORATION; COMCAST	§	JURY TRIAL REQUESTED
CABLE COMMUNICATIONS, LLC;	§	
and COMCAST OF PLANO, LP	§	

**NOTICE OF APPEARANCE**

Notice is hereby given that the undersigned attorney, Otis Carroll, enters his appearance in this matter for Plaintiff, Rembrandt Technologies, LP, for purposes of receiving notices and orders from the Court.

DATED this 15<sup>th</sup> day of January, 2007.

Respectfully submitted,

BY: /s/ Otis Carroll  
Otis Carroll  
State Bar No. 03895700  
Ireland, Carroll & Kelley, PC  
6101 S. Broadway, Suite 500  
Tyler, Texas 75703  
Tel: (903) 561-1600  
Fax: (903) 581-1071  
Email: [Fedserv@icklawn.com](mailto:Fedserv@icklawn.com)

ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail this 15<sup>th</sup> day of January, 2007.

/s/ Otis Carroll  
Otis Carroll



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

REMBRANDT TECHNOLOGIES, LP	§	
	§	
VS.	§	Civil Case No. 2:06-CV-506 TJW
	§	
COMCAST CORPORATION; COMCAST	§	JURY TRIAL REQUESTED
CABLE COMMUNICATIONS, LLC;	§	
and COMCAST OF PLANO, LP	§	

**NOTICE OF APPEARANCE**

Notice is hereby given that the undersigned attorney, Collin M. Maloney, enters his appearance in this matter for Plaintiff, Rembrandt Technologies, LP, for purposes of receiving notices and orders from the Court.

DATED this 15<sup>th</sup> day of January, 2007.

Respectfully submitted,

BY: /s/ Collin M. Maloney  
Collin M. Maloney  
State Bar No. 00794219  
Ireland, Carroll & Kelley, PC  
6101 S. Broadway, Suite 500  
Tyler, Texas 75703  
Tel: (903) 561-1600  
Fax: (903) 581-1071  
Email: [Fedserv@icklawn.com](mailto:Fedserv@icklawn.com)

ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail this 15<sup>th</sup> day of January, 2007.

/s/ Collin Maloney





IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

REMBRANDT TECHNOLOGIES, LP	§	
	§	
VS.	§	Civil Case No. 2:06-CV-506 TJW
	§	
COMCAST CORPORATION; COMCAST	§	JURY TRIAL REQUESTED
CABLE COMMUNICATIONS, LLC;	§	
and COMCAST OF PLANO, LP	§	

**NOTICE OF APPEARANCE**

Notice is hereby given that the undersigned attorney, Patrick Kelley, enters his appearance in this matter for Plaintiff, Rembrandt Technologies, LP, for purposes of receiving notices and orders from the Court.

DATED this 15<sup>th</sup> day of January, 2007.

Respectfully submitted,

BY: /s/ Patrick Kelley  
Patrick Kelley  
State Bar No. 11202500  
Ireland, Carroll & Kelley, PC  
6101 S. Broadway, Suite 500  
Tyler, Texas 75703  
Tel: (903) 561-1600  
Fax: (903) 581-1071  
Email: [Fedserv@icklawn.com](mailto:Fedserv@icklawn.com)

ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail this 15<sup>th</sup> day of January, 2007.

/s/ Patrick Kelley



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION  
APPLICATION TO APPEAR PRO HAC VICE

FILED-CLERK  
U.S. DISTRICT COURT

2007 JAN 12 PM 12:55

1 This application is being made for the following: Case # 06-CV-506-TJW

Style: Rembrandt Technologies, LP v. Comcast Corp., et. al.

TX EASTERN-MARSHALL

2 Applicant is representing the following party/ies:

Rembrandt Technologies, LP

BY Ja

3 Applicant was admitted to practice in WA (state) on 10/28/1998 (date).

4 Applicant is in good standing and is otherwise eligible to practice law before this court

5 Applicant is not currently suspended or disbarred in any other court

6 Applicant has has not had an application for admission to practice before another court denied (please circle appropriate language) If so, give complete information on a separate page

7 Applicant has has not ever had the privilege to practice before another court suspended (please circle) If so, give complete information on a separate page

8 Applicant has has not been disciplined by a court or Bar Association or committee thereof that would reflect unfavorably upon applicant's conduct, competency or fitness as a member of the Bar (please circle) If so, give complete information on a separate page

9 Describe in detail on a separate page any charges, arrests or convictions for criminal offense(s) filed against you Omit minor traffic offenses.

10 There are no pending grievances or criminal matters pending against the applicant.

11 Applicant has been admitted to practice in the following courts: USDC W.D. of WA  
USDC E.D. of WA

12 Applicant has read and will comply with the Local Rules of the Eastern District of Texas, including Rule AT-3, the "Standards of Practice to be Observed by Attorneys."

13 Applicant has included the requisite \$25 fee (see Local Rule AT-1(d))

14 Applicant understands that he she is being admitted for the limited purpose of appearing in the case specified above only

**Application Oath:**

I, Edgar Sargent do solemnly swear (or affirm) that the above information is true; that I will discharge the duties of attorney and counselor of this court faithfully; that I will demean myself uprightly under the law and the highest ethics of our profession; and that I will support and defend the Constitution of the United States.

Date 1/3/2007

Signature Edgar Sargent

Name (please print) Edgar Sargent  
State Bar Number 28283  
Firm Name: Susman Godfrey LLP  
Address/P O. Box: 1201 3<sup>rd</sup> Ave, Ste. 3800  
City/State/Zip: Seattle, WA 98101  
Telephone #: 200.516.3804  
Fax #: 200.516.3883  
E-mail Address: ESargent@SusmanGodfrey.com  
Secondary E-Mail Address: SHouston@SusmanGodfrey.com

Applicant is authorized to enter an appearance as counsel for the party/parties listed above. This application has been approved for the court this 12 day of Jan, 2007.

David J. Maland, Clerk

U.S. District Court, Eastern District of Texas

By 

Deputy Clerk

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

REMBRANDT TECHNOLOGIES, LP )  
 )  
Plaintiff, )  
 )  
v. ) Case No. 2:05-CV-443-TJW  
 )  
COMCAST CORPORATION, COMCAST )  
CABLE COMMUNICATIONS, LLC, )  
COMCAST OF PLANO, LP, )  
 )  
Defendants )  
\_\_\_\_\_ )

REMBRANDT TECHNOLOGIES, LP )  
 )  
Plaintiff, )  
 )  
v. ) Case No. 2:06-CV-506-TJW  
 )  
COMCAST CORPORATION, COMCAST )  
CABLE COMMUNICATIONS, LLC, )  
COMCAST OF PLANO, LP, )  
 )  
Defendants )  
\_\_\_\_\_ )

REMBRANDT TECHNOLOGIES, LP )  
 )  
Plaintiff, )  
 )  
v. ) Case No. 2:06-CV-047-TJW  
 )  
SHARP CORPORATION and SHARP )  
ELECTRONICS CORP. )  
 )  
Defendants )  
\_\_\_\_\_ )

REMBRANDT TECHNOLOGIES, LP )  
)  
Plaintiff, )  
)  
v. ) Case No. 2:06-CV-369-TJW  
)  
TIME WARNER CABLE, INC. )  
)  
Defendant )  
\_\_\_\_\_ )

REMBRANDT TECHNOLOGIES, LP )  
)  
Plaintiff, )  
)  
v. ) Case No. 2:06-CV-224-TJW  
)  
TIME WARNER CABLE, INC. )  
)  
Defendant )  
\_\_\_\_\_ )

REMBRANDT TECHNOLOGIES, LP )  
)  
Plaintiff, )  
)  
v. ) Case No. 2:06-CV-507-TJW  
)  
CHARTER COMMUNICATIONS, INC., )  
CHARTER COMMUNICATIONS )  
OPERATING, LLC, COXCOM, )  
INC., CSC HOLDINGS, INC., and )  
CABLEVISION )  
SYSTEMS CORPORATION )  
)  
Defendants )  
\_\_\_\_\_ )

<b>REMBRANDT TECHNOLOGIES, LP</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 2:06-CV-223-TJW</b>
	)	
<b>CHARTER COMMUNICATIONS, INC.,</b>	)	
<b>CHARTER COMMUNICATIONS</b>	)	
<b>OPERATING, LLC, COXCOM,</b>	)	
<b>INC., CSC HOLDINGS, INC., and</b>	)	
<b>CABLEVISION</b>	)	
<b>SYSTEMS CORPORATION</b>	)	
	)	
<b>Defendants</b>	)	
<hr/>	)	

**NOTICE OF FILING MOTION FOR TRANSFER AND CONSOLIDATION OF  
REMRBANDT TECHNOLOGIES, LP PATENT LITIGATION  
PURSUANT TO 28 U.S.C. § 1407**

PLEASE TAKE NOTICE that, pursuant to J.P.M.L. Rule 5.2(b), on March 9th, 2007, CoxCom, Inc. filed its Motion for Transfer and Consolidation of the Rembrandt Technologies, LP Patent Litigation Pursuant to 28 U.S.C. § 1407 with the Judicial Panel on Multidistrict Litigation in Washington, D.C. CoxCom, Inc. is a named defendant in both *Rembrandt Technologies, LP v. Charter Communications, Inc., et. al.*; Civil Action No. 2:06-CV-507, and *Rembrandt Technologies, LP v. Charter Communications, Inc., et. al.*; Civil Action No. 2:06-CV-223, both pending before Judge T. John Ward in the Eastern District of Texas. Enclosed with this Notice are copies of the motion for transfer and consolidation and all documents in support thereof.



Dated: March 9th, 2006.

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Respectfully Submitted



Mitchell G. Stockton  
R. Scott Griffin

**ATTORNEYS FOR COXCOM, INC.**

**CERTIFICATE OF SERVICE**

The Undersigned certifies that a copy of the NOTICE OF FILING MOTION FOR TRANSFER AND CONSOLIDATION OF REMBRANDT TECHNOLOGIES, LP PATENT LITIGATION PURSUANT TO 28 U.S.C. § 1407 was filed electronically in compliance with local rule CV-5(a) and contemporaneously served by first class mail on all counsel of record in the above-captioned cases.



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**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

In re:

Rembrandt Technologies, LP Patent  
Litigation

MDL Docket No.

**CERTIFICATE OF SERVICE**

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## CERTIFICATE OF SERVICE

I hereby certify that on 9<sup>th</sup> day of March, 2007, copies of the following documents:

1. Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation Pursuant to 28 U.S. C §1407;
2. Memorandum of Law in Support Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation Pursuant to 28 U.S. C §1407;
3. Exhibits in Support of Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation Pursuant to 28 U.S. C §1407;
4. Notice of Appearance of Counsel;
5. Corporate Disclosure Statement; and
6. Notice of Filing Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation Pursuant to 28 U.S. C §1407 [for each party's respective case].

were served by U.S. Mail, postage pre-paid, upon the following parties and counsel on the attached Service List.

I further certify that on the 9<sup>th</sup> day of March, 2007, pursuant to Rule 5.2(b) of the Judicial Panel on Multidistrict Litigation, I caused to be served the following documents by U.S. Mail, postage pre-paid:

1. Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation Pursuant to 28 U.S. C §1407;
2. Memorandum of Law in Support Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation Pursuant to 28 U.S. C §1407;
3. Exhibits in Support of Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation Pursuant to 28 U.S. C §1407;
4. Notice of Appearance of Counsel;
5. Corporate Disclosure Statement; and

6. Notice of Filing Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation Pursuant to 28 U.S. C §1407 [to District Courts for the following cases:].

U.S. District Court for the Eastern District of Texas

Case No. 02:05-cv-443-TJW; Case No. 02:06-cv-047-TJW; Case No. 02:05-cv-223-TJW;  
Case No. 02:06-cv-224-TJW; Case No. 02:06-cv-369-TJW; Case No. 02:06-cv-506-TJW;  
Case No. 02:06-cv-507-TJW

U. S. District Court for the District of Delaware

Case No. 1:06-cv-635-GMS; Case No. 1:06-cv-721-GMS; Case No. 1:06-cv-727-GMS;  
Case No. 1:06-cv-729-GMS; Case No. 1:06-cv-730-GMS; Case No. 1:06-cv-731-GMS

U. S. District Court for the Southern District of New York

Case No. 1:07-cv-214-WHP

U. S. Bankruptcy Court for the Southern District of New York

Case No. 06-01739-REG

The above documents were filed in electronic format using the CM/ECF system to the following United States District Courts: U.S. District Court for the Eastern District of Texas, Marshall Division; U. S. District Court for the Southern District of New York, Foley Square Division; and U. S. Bankruptcy Court for the Southern District of New York, Manhattan Division.

The above documents were sent in paper format via Federal Express to the Clerk of the Court of for the U. S. District Court for the District of Delaware, Wilmington Division for filing.

This the 9th day of March 2007.



---

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**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

_____	)	
In re:	)	
	)	
Rembrandt Technologies, LP Patent	)	MDL Docket No.
Litigation	)	
_____	)	

**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 5.3 of the Rules of Procedure of the Judicial Panel for Multidistrict Litigation, Defendant Coxcom, Inc., through its attorneys, declares that Coxcom, Inc. is a wholly owned subsidiary of Cox Enterprises, Inc., a privately owned company.

Dated: March 9th, 2006.

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**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

In re:

Rembrandt Technologies, LP Patent  
Litigation

MDL Docket No.

**EXHIBITS IN SUPPORT OF MOTION FOR TRANSFER AND CONSOLIDATION  
OF REMBRANDT TECHNOLOGIES PATENT LITIGATION PURSUANT TO 28  
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In compliance with Rule 7.1(g) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation (the “Panel”), Defendant CoxCom, Inc. (“CoxCom”)<sup>1</sup> herewith submits copies of the following referenced exhibits in support of its Motion For Transfer and Consolidation of Rembrandt Technologies Patent Litigation, file concurrently:

Exhibit 1	Plaintiff Rembrandt Technologies, LP Complaint, filed on February 3, 2006, in the matter of <i>Rembrandt Technologies, LP v. Sharp Corporation and Sharp Electronics Corporation</i> , No. 2:06-cv-047 (E.D. Tex.)
Exhibit 2	Docket Report in the matter of <i>Rembrandt Technologies, LP v. Sharp Corporation and Sharp Electronics Corporation</i> , No. 2:06-cv-047 (E.D. Tex.).
Exhibit 3	Plaintiff Rembrandt Technologies, LP Complaint for Patent Infringement, filed on September 16, 2005, in the matter of <i>Rembrandt Technologies, LP v. Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano, LP</i> , No. 2:05-cv-443 (E.D. Tex.)
Exhibit 4	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano, LP</i> , No. 2:05-cv-443 (E.D. Tex.)
Exhibit 5	Memorandum Opinion and Order of Judge Ward filed February 8, 2007 Granting Motion to disqualify counsel Fish & Richardson in the matter of <i>Rembrandt Technologies, LP v. Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano, LP</i> , No. 2:05-cv-443 (E.D. Tex.)
Exhibit 6	Order of Judge Ward filed February 8, 2007 Granting Motion to suspend all deadlines pending appointment of new counsel for plaintiff in the matter of <i>Rembrandt Technologies, LP v. Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano, LP</i> , No. 2:05-cv-443 (E.D. Tex.)
Exhibit 7	Plaintiff Rembrandt Technologies, LP First Amended Complaint, filed on December 21, 2006, in the matter of <i>Rembrandt Technologies, LP v. Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano, LP</i> , No. 2:06-cv-506 (E.D. Tex.)
Exhibit 8	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano, LP</i> , No. 2:06-cv-506 (E.D. Tex.)

<sup>1</sup> CoxCom is a defendant in the recently filed cases of *Rembrandt Technologies, LP v. Charter Communications, Inc., et al.*, No. 2:06-CV-223-TJW (E.D. Tex.) (Marshall Division) and *Rembrandt Technologies, LP v. Charter Communications, Inc., et al.*, No. 2:06-CV-507-TJW (E.D. Tex.) (Marshall Division). CoxCom is also a plaintiff in the recently filed declaratory judgment action of *CoxCom, Inc. v. Rembrandt Technologies, L.P.*, No. 06-721-GMS (D. Del.).

	<i>LP</i> , No. 2:06-cv-506 (E.D. Tex.)
Exhibit 9	Plaintiff Rembrandt Technologies, LP Complaint filed on June 1, 2006 in the matter of <i>Rembrandt Technologies, LP v. Time Warner Cable, Inc.</i> , No. 2:06-cv-224 (E.D. Tex.)
Exhibit 10	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. Time Warner Cable, Inc.</i> , No. 2:06-cv-224 (E.D. Tex.)
Exhibit 11	Plaintiff Rembrandt Technologies, LP First Amended Complaint filed on February 23, 2007 in the matter of <i>Rembrandt Technologies, LP v. Time Warner Cable, Inc.</i> , No. 2:06-cv-369 (E.D. Tex.)
Exhibit 12	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. Time Warner Cable, Inc.</i> , No. 2:06-cv-369 (E.D. Tex.)
Exhibit 13	Plaintiff Rembrandt Technologies, LP Complaint for Patent Infringement filed on June 1, 2006 in the matter of <i>Rembrandt Technologies, LP v. Charter Communications, Inc.; Charter Communications Operating, LLC; Cox Communications, Inc.; Cox Enterprises, Inc.; CoxCom, Inc.; CSC Holdings, Inc., and Cablevision Systems Corporation</i> , No. 2:06-cv-223 (E.D. Tex.)
Exhibit 14	Docket sheet in the matter <i>Rembrandt Technologies, LP v. Charter Communications, Inc.; Charter Communications Operating, LLC; Cox Communications, Inc.; Cox Enterprises, Inc.; CoxCom, Inc.; CSC Holdings, Inc., and Cablevision Systems Corporation</i> , No. 2:06-cv-223 (E.D. Tex.)
Exhibit 15	Plaintiff Rembrandt Technologies, LP First Amended Complaint filed December 1, 2006 in the matter of <i>Rembrandt Technologies, LP v. Charter Communications, Inc., Charter Communications Operating, LLC, and CoxCom, Inc.</i> , No. 2:06-cv-507 (E.D. Tex.)
Exhibit 16	Docket Sheet in the matter of <i>Rembrandt Technologies, LP v. Charter Communications, Inc., Charter Communications Operating, LLC, and CoxCom, Inc.</i> , No. 2:06-cv-507 (E.D. Tex.)
Exhibit 17	Plaintiff Rembrandt Technologies, LP Complaint for Patent Infringement filed on October 13, 2006 in the matter of <i>Rembrandt Technologies, LP v. Cablevision Systems Corporation and CSC Holdings, Inc.</i> , No. 1:06-cv-635 (D. Del.)
Exhibit 18	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. Cablevision Systems Corporation and CSC Holdings, Inc.</i> , No. 1:06-cv-635 (D. Del.)
Exhibit 19	Joint Status Report filed on February 9, 2007 in the matter of <i>Rembrandt Technologies, LP v. Cablevision Systems Corporation and CSC Holdings, Inc.</i> , No. 1:06-cv-635 (D. Del.)
Exhibit 20	Plaintiff CoxCom, Inc. Complaint for Declaratory Judgment filed on November 30, 2006 in the matter of <i>CoxCom, Inc. v. Rembrandt Technologies, LP</i> , No. 1:06-cv-721 (D. Del.)
Exhibit 21	Docket sheet in the matter of <i>CoxCom, Inc. v. Rembrandt Technologies, LP</i> , No. 1:06-cv-721 (D. Del.)
Exhibit 22	Plaintiff Rembrandt Technologies, Inc. Complaint for Patent Infringement and Demand for Jury Trial filed on December 1, 2006 in the matter of



	<i>Rembrandt Technologies, LP v. CBS Corporation</i> , No. 1:06-cv-727 (D. Del.)
Exhibit 23	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. CBS Corporation</i> , No. 1:06-cv-727 (D. Del.)
Exhibit 24	Plaintiff Rembrandt Technologies, LP Complaint for Patent Infringement and Demand for Jury trial filed on December 1, 2006 in the matter of <i>Rembrandt Technologies, LP v. NBC Universal, Inc.</i> , No. 1:06-cv-729 (D. Del.)
Exhibit 25	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. NBC Universal, Inc.</i> , No. 1:06-cv-729 (D. Del.)
Exhibit 26	Plaintiff Rembrandt Technologies, LP Complaint for Patent Infringement and Demand for Jury trial filed on December 1, 2006 in the matter of <i>Rembrandt Technologies, LP v. ABC, Inc.</i> , No. 1:06-cv-730 (D. Del.)
Exhibit 27	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. ABC, Inc.</i> , No. 1:06-cv-730 (D. Del.)
Exhibit 28	Plaintiff Rembrandt Technologies, LP Complaint for Patent Infringement and Demand for Jury trial filed on December 1, 2006 in the matter of <i>Rembrandt Technologies, LP v. Fox Entertainment Group, Inc. and Fox Broadcasting Company</i> , No. 1:06-cv-731 (D. Del.)
Exhibit 29	Docket sheet in the matter of <i>Rembrandt Technologies, LP v. Fox Entertainment Group, Inc. and Fox Broadcasting Company</i> , No. 1:06-cv-731 (D. Del.)
Exhibit 30	Plaintiff Rembrandt Technologies, LP's Motion to Withdraw the Reference to the Bankruptcy Court filed on January 11, 2007 in the matter of <i>In Re Adelphia Communication Corp. Rembrandt Technologies, LP v. Adelphia Communications Corp. Corporation, Century-TCI California Communications, LP, Century- TCI Distribution Company, LLC, Century-TCI Holdings, LLC, Parnassos, L.P., Parnassos Communications, LP, Parnassos Distribution Company I, LLC, Parnassos Distribution Company II, LLC, Parnassos Holdings, LLC, Western NY Cablevision, LP</i> , No. 1:07-cv-214 (S.D. New York).
Exhibit 31	Docket sheet in the matter of <i>In Re Adelphia Communication Corp. Rembrandt Technologies, LP v. Adelphia Communications Corp. Corporation, Century-TCI California Communications, LP, Century- TCI Distribution Company, LLC, Century- TCI Holdings, LLC, Parnassos, L.P., Parnassos Communications, LP, Parnassos Distribution Company I, LLC, Parnassos Distribution Company II, LLC, Parnassos Holdings, LLC, Western NY Cablevision, LP</i> , No. 1:07-cv-214 (S.D. New York).
Exhibit 32	Preliminary Expert Report of Kevin C. Almeroth dated November 13, 2006 in the matter of <i>In Re Adelphia Communication Corp. Rembrandt Technologies, LP v. Adelphia Communications Corp. Corporation, Century-TCI California Communications, LP, Century- TCI Distribution Company, LLC, Century- TCI Holdings, LLC, Parnassos, L.P., Parnassos Communications, LP, Parnassos Distribution Company I, LLC, Parnassos Distribution Company II, LLC, Parnassos Holdings, LLC, Western NY Cablevision, LP</i> , No. 1:07-cv-214 (S.D. New York).

Exhibit 33	Plaintiff Rembrandt Technologies, LP's Complaint for Post-Petition Patent Infringement filed on September 13, 2006 in the matter of <i>In Re Adelphia Communication Corp. Rembrandt Technologies, LP v. Adelphia Communications Corp. Corporation, Century-TCI California Communications, LP, Century- TCI Distribution Company, LLC, Century-TCI Holdings, LLC, Parnassos, L.P., Parnassos Communications, LP, Parnassos Distribution Company I, LLC, Parnassos Distribution Company II, LLC, Parnassos Holdings, LLC, Western NY Cablevision, LP, Adversary Proceeding No. 06-1739 (S.D. New York).</i>
Exhibit 34	Docket sheet in the matter of <i>In Re Adelphia Communication Corp. Rembrandt Technologies, LP v. Adelphia Communications Corp. Corporation, Century-TCI California Communications, LP, Century- TCI Distribution Company, LLC, Century- TCI Holdings, LLC, Parnassos, L.P., Parnassos Communications, LP, Parnassos Distribution Company I, LLC, Parnassos Distribution Company II, LLC, Parnassos Holdings, LLC, Western NY Cablevision, LP, Adversary Proceeding No. 06-1739 (S.D. New York).</i>
Exhibit 35	Transfer Order filed on February 16, 2005, <i>In Re Pharmastem Therapeutics, Inc., Patent Litigation</i> , Judicial Panel on Multidistrict Litigation Case No. 1:05-md-01660.
Exhibit 36	2005 Annual Report of the Administrative Office of the United States Courts Table C: U.S. District Courts- Civil Cases Commenced, Terminated and Pending During the 12-month Periods Ending Marcy 31, 2005 and 2006.
Exhibit 37	U.S. District Court Judicial Caseload Profile for the District of Delaware.
Exhibit 38	Docket List of Pending Patent Cases in the District of Delaware before Judge Sleet.
Exhibit 39	U.S. District Court Judicial Caseload Profile for the Eastern District of Texas.
Exhibit 40	U.S. District Court Judicial Caseload Profile for the Southern District of New York.
Exhibit 41	Declaration of Brian Ferrall
Exhibit 42	February 14, 2007 Letter to counsel for Cox Communication, Inc. from Rembrandt
Exhibit 43	Declaration of Eilish M. Cahalan in Support of Defendants' Memorandum in Opposition to Plaintiff's Motion to Withdraw the Reference to the Bankruptcy Court filed March 2, 2007 in the matter of <i>In Re Adelphia Communication Corp. Rembrandt Technologies, LP v. Adelphia Communications Corp. Corporation, Century-TCI California Communications, LP, Century- TCI Distribution Company, LLC, Century-TCI Holdings, LLC, Parnassos, L.P., Parnassos Communications, LP, Parnassos Distribution Company I, LLC, Parnassos Distribution Company II, LLC, Parnassos Holdings, LLC, Western NY Cablevision, LP, No. 1:07-cv-214 (S.D. New York).</i>



This the 9th day of March 2007.



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**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

In re:	)	
	)	
Rembrandt Technologies, LP Patent	)	MDL Docket No.
Litigation	)	
	)	

**MEMORANDUM OF LAW  
IN SUPPORT OF MOTION TO TRANSFER AND CONSOLIDATION OF  
REMBRANDT TECHNOLOGIES, LP PATENT LITIGATION  
PURSUANT TO 28 U.S.C. § 1407**

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**TABLE OF ABBREVIATIONS**

Full Name	Abbreviation
CoxCom, Inc.	CoxCom
Rembrandt Technologies, LP	Rembrandt
Sharp Corporation and Sharp Electronics Corporation	Sharp
Time Warner Cable, Inc.	Time Warner
Charter Communications, Inc. and Charter Communications Operating, LLC,	Charter
Cablevision Systems Corporation and CSC Holdings, Inc.	Cablevision
Adelphia Communications Corporation, Century-TCI California Communications, LP, Century- TCI Distribution Company, LLC, Century- TCI Holdings, LLC, Parnassos, L.P., Parnassos Communications, LP, Parnassos Distribution Company I, LLC, Parnassos Distribution Company II, LLC, Parnassos Holdings, LLC, Western NY Cablevision, LP	Adelphia
Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano LP	Comcast
CBS Corporation	CBS
NBC Universal, Inc.	NBC
ABC, Inc.	ABC
Fox Entertainment Group, Inc. and Fox Broadcasting Company	Fox
Rembrandt I Patents:	Rembrandt I Patents:
U.S. Patent No. 5,243,627	'627 Patent
U.S. Patent No. 5,852,631	'631 Patent
U.S. Patent No. 5,719,858	'858 Patent
U.S. Patent No. 4,937,819	'819 Patent
Litigation initiated by Rembrandt in 2005 and 2006 involving the '627, '631, '858, and '819 patents.	Rembrandt I litigation
Rembrandt II Patents:	Rembrandt II Patents:
U.S. Patent No. 5,008,903	'903 Patent
U.S. Patent No. 5,710,761	'761 Patent
U.S. Patent No. 5,778,234	'234 Patent

U.S. Patent No. 6,131,159	'159 Patent
U.S. Patent No. 6,950,444	'444 Patent
Litigation initiated by Rembrandt in 2006 involving the '903, '761, '234, '159, and '444 patents.	Rembrandt II litigation
Data-Over-Cable Service Interface Specifications	DOCSIS
Advanced Television System Committee	ATSC
United States District Court for the Eastern District of Texas	E.D. Tex.
United States District Court for the District of Delaware	D. Del.
United States District Court for the Southern District of New York	S.D.N.Y.

## BRIEF IN SUPPORT OF MOTION FOR TRANSFER AND CONSOLIDATION FOR COORDINATED PRETRIAL PROCEEDINGS

Pursuant to 28 U.S.C. §1407 and Rule 7.2 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Defendant CoxCom<sup>1</sup> submits this Memorandum of Law in Support of its Motion for Transfer and Consolidation of the Rembrandt Technologies, LP Patent Litigation pursuant to 28 U.S.C. §1407. CoxCom moves the Panel for an Order transferring and consolidating fourteen (14) related patent infringement actions filed by or against Rembrandt, as well as any actions that may subsequently be filed by or against Rembrandt, asserting similar or related claims to the District of Delaware.<sup>2</sup>

### **I. BACKGROUND OF THE LITIGATION**

This Motion seeks transfer and consolidation of fourteen related actions for alleged patent infringement filed by or against Rembrandt in three District Courts, ten of which were filed within the last six months (collectively, the “Actions”). Nine of the Actions allege infringement of numerous overlapping patents relating to the provision of high speed internet services through the use of DOCSIS-compliant equipment. *See, e.g.*, Ex. 13 ¶¶ 19-36<sup>3</sup>; Ex.

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<sup>1</sup> CoxCom is a defendant in the recently filed cases of *Rembrandt v. Charter, et al.*, No. 2:06-CV-223-TJW (E.D. Tex.) and *Rembrandt v. Charter, et al.*, No. 2:06-CV-507-TJW (E.D. Tex.). CoxCom is also a plaintiff in the recently filed declaratory judgment action of *CoxCom v. Rembrandt*, No. 06-721-GMS (D. Del.).

<sup>2</sup> CoxCom moves the Panel for consolidation of all 14 related patent infringement actions, but suggests that, because of the illogical way in which the claims were grouped in the 14 cases, the most convenient, just and efficient administration of these actions would be achieved if the transferee court severed from the consolidated action the claims of the ‘627 patent for separate treatment and conduct. Rembrandt asserts the claims of the ‘627 patent against completely different technology and activity (receipt and transmission of broadcast television signals through ATSC-compliant equipment) than the rest of the patent claims (which are asserted against high speed internet services through DOCSIS-compliant equipment).

<sup>3</sup> Except as otherwise indicated, references to Exhibits 1-42 refer to the Exhibits in Support of Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation filed concurrently herewith. References to Exhibits A-B refer to the exhibits attached to the Motion for Transfer and Consolidation of Rembrandt Technologies Patent Litigation.

15 ¶¶ 8-32. Of these nine actions, four also allege infringement of a separate and distinct patent, the '627 patent, relating to the receipt and transmission over the cable television systems of digital terrestrial broadcast signals that comply with the ATSC Digital Television Standard. *See, e.g.*, Ex.13 ¶¶ 13-18. The five remaining actions allege infringement solely of the '627 patent. *See, e.g.*, Ex. 22 ¶¶ 6-12. Pursuant to Rule 7.2(a)(ii) of the Rules of the Panel, a schedule of the fourteen Actions is attached as Exhibit A to the Motion.

Due to the large number of overlapping patents asserted in the Actions and the fact that Rembrandt contends that industry standards infringe the patents in suit, the Actions present numerous common issues of fact and law regarding such matters as the technology underlying the patents, the prior art, the construction of the patent claims, the validity, enforceability and the alleged infringement of the patents, and the extent to which the doctrine of prosecution history estoppel precludes any finding of infringement under the doctrine of equivalents. Accordingly, if the Actions are not transferred and consolidated, needless expense and waste of judicial resources will be incurred as fourteen actions go forward on separate tracks. Moreover, without transfer and consolidation, there is a serious risk of inconsistent pre-trial rulings (especially on the critical issues of claim construction and prosecution history estoppel) and, thus, the distinct possibility of inconsistent judgments on the merits. Because the Actions assert infringement based on compliance with industry standards, the effect of having inconsistent rulings regarding industry standards would be significant and deleterious.

By contrast, consolidation in a single district, will conserve judicial resources, reduce costs, prevent duplicative discovery and protect against inconsistent pre-trial rulings and

contradictory results. Presumably for these reasons, even Rembrandt believes that transfer and consolidation under 28 U.S.C. § 1407 is desirable. Ex. 43 at Ex. C at 13:16-14:10.

## II. FACTUAL BACKGROUND

### A. Rembrandt

Rembrandt is a New Jersey limited partnership with its principal place of business in Bala Cynwyd, Pennsylvania. Ex. 20 ¶ 2. Rembrandt is a non-practicing entity (“NPE”)—a firm that invests in patents for the purpose of litigating patent infringement and obtaining royalties and licenses, but does not practice the patents. *Id.* ¶¶ 7, 9. According to its website, Rembrandt “shoulders the legal, financial, and business risks associated with pursuing patent pirates and provides the capital and expertise required to litigate complex patent infringements.” *Id.* ¶ 8. To pursue such patent infringement litigation, Rembrandt maintains a “staff of in-house professionals and outside consultants” that “includes scientists, inventors, financial analysts, lawyers, and researchers who are expert at identifying the validity and market value of patents and Intellectual Property (IP), and securing revenue for these inventors and companies as well as Rembrandt’s investors.” *Id.* In fact, Rembrandt distinguishes itself from other NPEs by emphasizing its willingness and “ability to pursue patent infringement.” *Id.* Rembrandt claims to have raised \$150 million “to acquire patents and litigate patent infringement.” *Id.*

Rembrandt filed the Actions in two waves, apparently as it became the assignee of the various patents in suit. As a result, the Actions were not broken out in a logical fashion. Instead, four of the actions assert two separate and unrelated sets of patents and accuse two separate and unrelated industry standards. Despite this timing issue, the two waves of litigation (“Rembrandt I” and “Rembrandt II”) overlap significantly with regard to the



alleged infringers and the accused activities as they relate to those patents implicating the DOCSIS industry standard. Those cases asserting the '627 patent (implicating the ATSC industry standard) also overlap with respect to the accused activities.

## B. The Present Actions

NAME OF ACTION	DISTRICT COURT	CIVIL ACTION NUMBER
<b>Rembrandt I Litigation</b>		
<i>Rembrandt Technologies, LP v. Sharp Corp., et al.</i>	E.D. Tex.	2:06-cv-047
<i>Rembrandt Technologies, LP v. Comcast Corp., et al.</i>	E.D. Tex.	2:05-cv-443
<i>Rembrandt Technologies, LP v. Time Warner Cable, Inc.</i>	E.D. Tex.	2:06-cv-224
<i>Rembrandt Technologies, LP v. Charter Commc'n, et al.</i>	E.D. Tex.	2:06-cv-223
<i>Rembrandt Technologies, LP v. Cablevision Sys., et al.</i>	D. Del.	1:06-cv-635
<i>Rembrandt Technologies, LP v. CBS Corp.</i>	D. Del.	1:06-cv-727
<i>Rembrandt Technologies, LP v. NBC Universal, Inc.</i>	D. Del.	1:06-cv-729
<i>Rembrandt Technologies, LP v. ABC, Inc.</i>	D. Del.	1:06-cv-730
<i>Rembrandt Technologies, LP v. Fox Entm't Group, Inc., et al.</i>	D. Del.	1:06-cv-731
<b>Rembrandt II Litigation</b>		
<i>Rembrandt Technologies, LP v. Comcast Corp., et al.</i>	E.D. Tex.	2:06-cv-506
<i>Rembrandt Technologies, LP v. Time Warner Cable, Inc.</i>	E.D. Tex.	2:06-cv-369
<i>Rembrandt Technologies, LP v. Charter Commc'n, et al.</i>	E.D. Tex.	2:06-cv-507
<i>CoxCom, Inc. v. Rembrandt Technologies, LP</i>	D. Del.	1:06-cv-721
<i>Rembrandt Technologies, LP v. Adelphia Commc'n Corp., et al.</i>	S.D.N.Y.	1:07-cv-214

The Rembrandt I litigation includes nine cases against fifteen current defendants spanning three industries (cable, television broadcast, and manufacturing) and asserts infringement of up to five patents. One of the five patents asserted in the Rembrandt I litigation, the '627 patent, is asserted against each of the fifteen current Rembrandt I defendants. Rembrandt contends that the '627 patent covers the receipt and transmission of ATSC-compliant television broadcast signals. *See, e.g.*, Ex. 13 ¶¶ 13-18. The remaining four patents asserted in the Rembrandt I litigation do not relate to the transmission of

television signals. Instead, Rembrandt asserts the remaining four patents against the provision of high speed internet service through the use of DOCSIS-compliant cable modems and related equipment. Ex. 13 ¶¶ 19-36; *see also* Ex 19 at 1-3.

The Rembrandt II litigation includes three cases filed by Rembrandt in the E.D. Tex. against seven cable service providers (all of whom are also defendants in the Rembrandt I litigation), a declaratory judgment action filed by CoxCom in the D. Del., and an action filed in the S.D.N.Y against Adelphia.<sup>4</sup> In the Rembrandt II litigation, Rembrandt alleges infringement of five patents based on the Defendants' provision of high speed internet service and accuses the same DOCSIS-compliant equipment that is accused in the Rembrandt I litigation.<sup>5</sup> *See, e.g.*, Ex. 15 ¶¶ 8-32; *see also* Ex. 32 ¶¶ 20-28.

But for the claim of infringement based on the '627 patent, all of the infringement claims in the Rembrandt I and Rembrandt II actions relate to the provision of high speed internet and related services using DOCSIS-compliant cable modems and related equipment. Because of the illogical way in which these actions were filed, it is necessary to consolidate not only all of those cases asserting patents implicating the DOCSIS industry standard, but also those cases asserting the '627 patent implicating the ATSC industry standard.

## **1. The Rembrandt I Litigation.**

### ***a. Rembrandt v. Sharp, No. 2:06-cv-047 (E.D. Tex.).***

Rembrandt filed the *Sharp* action on February 3, 2006, in the E.D. Tex., asserting the '627 patent. *See* Ex. 1 ¶¶ 6-10. As of March 6, 2007, the defendants have answered and

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<sup>4</sup> The lawsuit against Adelphia was initiated as an adversary proceeding filed in Adelphia's bankruptcy matter. *See* Ex. 33.

<sup>5</sup> For the Panel's convenience, a table identifying the asserted patents, the actions in which they have been asserted and the industry standards which are accused is attached to the Motion as Exhibit B.

filed counterclaims, which also have been answered. No discovery has been taken and no substantive orders have been issued. *See* Ex. 2. In fact, the court just presided over the initial case management conference on February 20, 2007. *Id.*

***b. Rembrandt v. Comcast, et al., No. 2:05-cv-443 (E.D. Tex.).***

Rembrandt filed the first *Comcast* complaint on September 16, 2005 in the E.D. Tex., asserting the ‘627 patent against the ATSC standard and three other patents (‘631, ‘819, and ‘858) against DOCSIS. *See* Ex. 3 ¶¶ 13-30. There have been no substantive orders issued. *See* Ex. 4. A claim construction hearing was to be held on February 8, 2007. However, after granting a motion to disqualify Rembrandt’s counsel, the court canceled the hearing, suspended all deadlines and ordered the parties to submit a proposed schedule after plaintiff retained new counsel and such counsel appeared in the case. Ex. 5; Ex. 6. No new schedule has yet been proposed to or issued by the court. Ex. 4.

***c. Rembrandt v. Time Warner, No. 2:06-cv-224 (E.D. Tex.) and Rembrandt v. Charter, et al., No. 2:06-cv-223 (E.D. Tex.).***

On June 1, 2006, Rembrandt filed actions in the E.D. Tex. against Time Warner, Charter, CoxCom and their respective related entities, asserting the same patents (‘627, ‘631, ‘819, ‘858) Rembrandt asserted in the *Comcast* case. *See* Ex. 9 ¶¶ 6-29; Ex. 13 ¶¶ 13-36. As of March 6, 2007, the defendants have answered and filed counterclaims, which have been answered. *See* Ex. 10; Ex. 14. CoxCom moved to dismiss for lack of personal jurisdiction. *Id.* No discovery has been taken and no substantive orders have been issued. *Id.*; Ex. 10.

***d. Rembrandt v. Cablevision, No. 1:06-cv-635 (D. Del.).***

On October 13, 2006, Rembrandt filed an action against Cablevision in the D. Del., asserting the same four patents (‘627, ‘631, ‘819, ‘858) Rembrandt asserted in the prior E.D.

Tex. cases, and an additional patent (the '903 patent) against DOCSIS. *See* Ex. 17 ¶¶ 8-37.

As of March 6, 2007, the defendants have answered and filed counterclaims, which also have been answered. *See* Ex. 18. Within the last month, defendants have served written discovery requests and their mandatory disclosures required by Rule 26(a) of the Federal Rules of Civil Procedure. *Id.* No substantive orders have issued. *Id.*

*e. Rembrandt v. CBS, No. 1:06-cv-727 (D. Del.); Rembrandt v. NBC, No. 1:06-cv-729 (D. Del.); Rembrandt v. ABC, No. 1:06-cv-730 (D. Del.), and Rembrandt v. Fox, No. 1:06-cv-731 (D. Del.).*

On December 1, 2006, Rembrandt filed in the D. Del. four separate actions against CBS, NBC, ABC and Fox broadcasting companies asserting the '627 patent. *See* Ex. 22 ¶¶ 6-12; Ex. 24 ¶¶ 6-12; Ex. 26 ¶¶ 6-12; Ex. 28 ¶¶ 7-13. As of March 6, 2007, the defendants have answered and filed counterclaims, which also have been answered. *See* Ex. 23; Ex. 25; Ex. 27; Ex. 29. No discovery has been taken and no substantive orders have been issued. *Id.*

## **2. The Rembrandt II Litigation.**

*a. Rembrandt v. Time Warner, No. 2:06-cv-369 (E.D. Tex.).*

On September 13, 2006, Rembrandt initiated a new wave of litigation against the cable service providers with an action against Time Warner filed in the E.D. Tex., asserting five additional patents against DOCSIS. *See* Ex. 11 ¶¶ 11-35. Specifically, Rembrandt's complaint asserts infringement of the '761, '234, '159, '444 and '903 patents. *Id.* Time Warner has answered and filed counterclaims, which have been answered. *See* Ex. 12. On February 23, 2007, Rembrandt moved for leave to amend its complaint. *Id.* No discovery has been taken and no substantive orders have been issued. *Id.*

**b. *Rembrandt v. Comcast, No. 2:06-cv-506 (E.D. Tex.) and Rembrandt v. Charter, et al., No. 2:06-cv-507 (E.D. Tex.).***

On November 30, 2006, Rembrandt filed two more actions against cable companies Comcast, Charter, CoxCom, and their respective related entities, asserting infringement of the same five additional patents ('761, '234, '159, '444 and '903) against DOCSIS. *See* Ex. 7 ¶¶ 6-30; Ex. 15 ¶¶ 8-32. As of March 6, 2007, the defendants have answered and filed counterclaims, which have been answered. *See* Ex. 8; Ex. 16. CoxCom has moved for dismissal or, in the alternative, to transfer to the D. Del. *Id.* No discovery has been taken and no substantive orders have been issued. *Id.*; Ex. 16.

**c. *CoxCom v. Rembrandt, No. 1:06-cv-721 (D. Del.).***

CoxCom filed a declaratory judgment action in the D. Del. on November 30, 2006, seeking declarations as to the noninfringement and invalidity as to the '903 patent. *See* Ex. 20 ¶¶ 18-22. The declaratory judgment action was filed four hours before Rembrandt filed suit against CoxCom in the E.D. Tex. Rembrandt has moved to dismiss the action. *See* Ex. 21. No discovery has been taken and no substantive orders have been issued. *Id.*

**d. *Rembrandt v. Adelphia, No. 1:07-cv-214 (S.D.N.Y.).***

On September 13, 2006, Rembrandt filed an adversary proceeding in the Adelphia bankruptcy action pending in the S.D.N.Y., asserting four of the DOCSIS patents asserted against the other cable companies (the '761, '234, '159, and '444 patents). *See* Ex. 33 ¶¶ 18-37. On January 10, 2007, Rembrandt moved to withdraw the reference to the bankruptcy court so that the litigation would proceed in the district court. *See* Ex. 30. Adelphia has filed an opposition to the motion. *See Id.* The motion has not yet been resolved. *Id.*

### III. ARGUMENT

Under 28 U.S.C. § 1407(a), civil actions “involving one or more common questions of fact,” pending in different federal districts may be transferred to a single district for coordinated or consolidated pretrial proceedings. Transfers are appropriate if the Panel determines that “transfers for such proceedings will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.” *Id.* The Actions involved in this litigation easily satisfy each of these requirements.

#### A. **The Actions Present Many Common Questions of Fact.**

The Panel has recognized that actions involving overlapping patents are particularly well-suited for consolidation under 28 U.S.C. §1407 because they, by their very nature, present many common questions of fact. For example, in *In re Acacia Media Techs. Corp. Patent Litg.*, the Panel recognized that when overlapping patents are asserted in multiple actions, “[a]ll actions . . . can be expected to share factual and legal questions concerning such matters as the technology underlying the patents, prior art, claim construction and/or issues of infringement involving the patents.” 360 F. Supp. 2d 1377, 1379 (J.P.M.L. 2005); *accord In re PharmaStem Therapeutics, Inc., Patent Litig.*, 360 F. Supp. 2d 1362, 1364 (J.P.M.L. 2005) (consolidating five actions asserting overlapping patents with a related unfair competition action); *In re MLR, LLC, Patent Litig.*, 269 F. Supp. 2d 1380 (ordering consolidation of three actions dealing with cellular phone and/or modem products, on the basis that overlapping complex patents, “can thus be expected to share factual and legal questions concerning such matters as patent validity, prior art, obviousness and interpretation of various claims of the patents.”).

Here, Rembrandt has asserted many overlapping patents in each of the Actions.

Specifically, as shown in Exhibit B attached to the Motion:

- Four (4) patents ('761, '234, '159 and '444) have been asserted in four actions;
- Three (3) patents ('631, '858, and '819) have been asserted in four actions;
- One (1) patent ('903) has been asserted in five actions; and
- One (1) patent ('627) has been asserted in nine actions.

Due to the large number of overlapping patents asserted by Rembrandt in the Actions, this litigation involves many common questions of fact. Each of the Actions involve allegations of infringement, invalidity and enforceability issues common to the overlapping patents. The Actions, therefore, can be expected to share factual and legal questions concerning such matters as the technology underlying the patents, the scope and content of the prior art, claim construction, the prosecution histories of the asserted patents and any inequitable conduct and/or unreasonable delays (prosecution laches) committed during their prosecution, and/or issues of infringement involving the patents.

The Panel has routinely recognized that the issue of infringement are likely to raise common questions of fact in multidistrict patent litigation actions. *See In re Acacia Media Techs. Corp. Patent Litg.*, 360 F. Supp. 2d 1377, 1379 (J.P.M.L. 2005) (where overlapping patents are asserted in multiple actions it can be expected that they share factual and legal questions concerning issues such as infringement involving the patents); *In re Mirtazapine Patent Litig.*, 199 F. Supp. 2d 1380, 1381 (J.P.M.L. 2002) (ordering consolidation of six actions involving common infringement and invalidity contentions). Furthermore, when actions involve the same underlying technology, as these do here, claims of infringement as to each defendant will necessarily involve common questions of fact.

All of the Actions involve the same underlying technologies and industry standards—the provision of high speed internet services by virtue of DOCSIS-compliant modems and related equipment; or, in the case of the ‘627 patent, the receipt and transmission of ATSC-compliant television broadcast signals. Because the accused systems in each of the Actions is DOCSIS-compliant or ATSC-compliant, claims of infringement as to each defendant will necessarily involve common questions of fact, therefore making them appropriate for consolidation. *See* Ex. 43 at Ex. C at 5:22-7:20 (arguing that the DOCSIS standard infringes and, thus, any services that comply with the standard also infringe); *see also In re FMC Corp. Patent Litig.*, 422 F.Supp. 1163, 1165 (J.P.M.L. 1976) (finding that because all the defendants used the same product, common factual questions concerning the infringement issues were also present). In fact, Rembrandt recently acknowledged that the alleged infringing activity of any specific defendant is not unique. Instead, it is the defendants’ compliance with the industry standards that is accused. *See* Ex. 43 at Ex. C at 5:22-7:9.

Further, the question of damages will present many other common issues of fact among the Actions. Because Rembrandt is not a competitor of the defendants, Rembrandt is expected to seek damages in the form of a reasonable royalties *see, e.g.*, Ex. 42, which involves consideration of multiple factors as set forth in the seminal case of *Georgia-Pacific Corp. v. United States Plywood Corp.*, 318 F. Supp. 1116, 1120 (S.D.N.Y. 1970), *modified and aff’d*, 446 F.2d 295 (2d Cir. 1971). Because many of these factors relate to the specific patent or patent owner involved in the case, each patent for which Rembrandt seeks damages will present numerous common factual issues. Also, Rembrandt has offered to license the ‘627 patent under reasonable terms and conditions on a non-discriminatory, non-exclusive basis. *See* Ex. 42. Thus, the terms and conditions of any such licenses will be common to all



of the defendants against whom the '627 patent has been asserted. Moreover, because the claims relating to the provision of high speed internet services straddle both Rembrandt I and Rembrandt II actions, because the claims accuse the same equipment, and because seven of the cable service provider defendants have been sued in both the Rembrandt I and Rembrandt II actions, there is a risk that Rembrandt may receive overlapping damages for the same activity at issue in the Rembrandt I and Rembrandt II actions

The Actions all involve common questions of fact; thus, transfer and consolidation would serve the convenience of the parties and witness and would promote the just and efficient conduct of the Actions. Because of these common questions, centralization would eliminate duplicative discovery, prevent inconsistent or repetitive pretrial rulings, and conserve the resources of the parties, their counsel, and the judiciary.

**B. Transfer and Consolidation Would Serve the Convenience of the Parties.**

There can be no question that consolidation and transfer to a single district would serve the convenience of the parties. The claims relating to the provision of high speed internet and related services accuse the same DOCSIS-compliant equipment—cable modems and related equipment used by the defendants to provide high speed internet service. However, because some of these claims are asserted in the Rembrandt I actions while other, related claims are asserted in the Rembrandt II actions and because many of the cable service provider defendants have been sued in both the Rembrandt I and Rembrandt II actions, it is expected that the cable service provider defendants and the third parties who supply and manufacture the accused equipment will be subjected to burdensome and inefficient discovery as they are forced to respond to overlapping and duplicative discovery requested in the separate actions. For example, in *Rembrandt v. Comcast*, No. 2:05-CV-443 (E.D. Tex.),

Rembrandt has already served subpoenas on over forty (40) third party vendors seeking identical discovery information regarding the accused DOCSIS-compliant devices supplied to the defendants. *See* Ex. 41. Because the defendants in both Rembrandt I and Rembrandt II rely on the same group of vendors and manufacturers to supply them with the accused equipment, it is expected that Rembrandt will pursue the same information from each of the third party vendors in each Action, resulting in unnecessary, duplicative discovery.

Unnecessary, duplicative discovery is exactly what 28 U.S.C. § 1407 was designed to avoid. *In re Multidistrict Litig. Involving Frost Patent*, 316 F. Supp. 977, 979 (J.P.M.L. 1970) (“Section 1407 was intended to provide a procedure which would insure that repetitious and duplicative discovery is avoided by providing that all related actions be assigned to a single judge). Coordination of discovery in this case, however, would eliminate this possibility. It would reduce the burden of both the defendants and plaintiff in pursuing discovery on the many common issues. It will also benefit the third party vendors and manufacturers, who may possess information relevant to each action, by avoiding the possibility of having to engage in identical discovery efforts for each of the fourteen Actions. Thus, it is clear that consolidation and transfer to a single district would serve the convenience of the parties by avoiding costly and unnecessarily duplicative discovery.

**C. Transfer and Consolidation Would Promote Just and Efficient Conduct of the Actions.**

As Rembrandt recently agreed during a hearing held in the Adelphia matter, transfer and consolidation would also promote just and efficient conduct of the Actions. *See* Ex. 43 at Ex. C at 13:16-13:23. Without consolidation, the Actions would likely proceed in a manner that is contrary to the meaning of judicial economy. If allowed to proceed

separately, these Actions will follow a costly and inefficient path, resulting in wasteful, duplicative discovery and create the potential for inconsistent pretrial rulings. By ordering consolidation, however, the Panel will ensure that the resources of the party and judiciary are used in their most judicious manner, avoiding the potential for conflicting rulings and inconsistent claim constructions.

Under *Markman v. Westview Instruments, Inc.*, it is the obligation of each district court to construe the claims of a patent as a matter of law. 517 U.S. 370, 388-91 (1996). While the prior claim constructions of other courts are relevant and persuasive authority, each district court must make its own judgment as to claim construction. *Texas Instruments, Inc. v. Linear Tech. Corp.*, 182 F. Supp. 2d 580, 589 (E.D. Tex. 2002). Here, given the large number of Actions asserting overlapping, complex patents in at least three different courts, the parties face the untenable prospect of several different claim constructions on identical claim terms. Such varying claim constructions could result in contradictory determinations on the core issues of infringement and invalidity. Consolidation is therefore necessary to ensure uniform application of the patent claims across all the Actions. *See In re Columbia Univ. Patent Litig.*, 313 F. Supp. 2d 1383, 1385 (J.P.M.L. 2004) (“Centralization . . . is necessary in order to . . . prevent inconsistent pretrial rulings, especially with respect to time-consuming and complex matters of claim construction . . . .”); *see also In re Mosaid Tech., Inc. Patent Litig.*, 283 F. Supp. 2d 1359, 1360 (J.P.M.L. 2003) (same).

As noted above, Rembrandt’s assertion of so many overlapping patents means that the defendants will all pursue much of the same discovery to elicit facts to support their defenses. For example, all defendants can be expected to pursue documents and depositions supporting the defense of invalidity based on anticipation or obviousness, including

documents and depositions relating to the same prior inventions, prior printed publications, prior commercial sales and prior uses. *See* 35 U.S.C. §§ 102, 103. All defendants are also likely to see discovery relating to the enforceability of the asserted patents, including any inequitable conduct during their prosecution and/or unreasonable prosecution delays, which would result in a finding of prosecution laches. *See, e.g. Symbol Techs., Inc. v. Lemelson Med. Edu. & Research Found., L.P.*, 422 F.3d 1378, 1384-85, *amended on other grounds by* 429 F.3d 1051 (Fed. Cir. 2005). Furthermore, the defendants will also seek the same damages discovery relating to reasonable royalty factors, thereby resulting in duplicative and wasteful discovery efforts. Consolidation and coordination of the Actions for pretrial proceedings would therefore promote the just and efficient conduct of the Actions by avoiding wasteful and duplicative discovery efforts as well as inconsistent pretrial rulings.

Finally, but for the claim of infringement of the '627 patent, all of Rembrandt's infringement claims relate to the provision of high speed internet and related services by virtue of DOCSIS-compliant cable modems and related equipment. By consolidating all of the Actions in one forum, the transferee court will, at its discretion, be able to sever out and consolidate those claims relating to the '627 patent/ATSC standard, while preserving the consolidation of all the actions involving patents implicating the DOCSIS industry standard.

### **III. THE DISTRICT COURT OF DELAWARE IS THE APPROPRIATE TRANSFeree DISTRICT.**

Consolidation and transfer to the District of Delaware, before Judge Gregory M. Sleet, is the most appropriate action. Factors considered by the Panel when selecting a particular transferee forum include: (1) the pendency in that district of a number of the actions; (2) the court's familiarity with the issues; (3) the district or judge's willingness to

accept responsibility for conducting coordinated or consolidated pretrial proceedings; and (4) the favorable status of the civil docket. *In re PharmaStem Therapeutics, Inc. Patent Litig.*, 360 F. Supp. 2d 1362, 1364 (J.P.M.L. 2005) (transfer to judge who was already familiar with the technology involved and who had related cases pending within his district); *In re Mirtazapine Patent Litig.*, 199 F. Supp. 2d 1380, 1381 (J.P.M.L. 2003) (Panel gave weight to the judge's familiarity with the patents at issue, the pendency of 5 of the 6 actions within that district, and the judge's favorable caseload); *In re FMC Corp. Patent Litig.*, 422 F. Supp. 1163, 1165 (J.P.M.L. 1976) (transfer to judge who is more familiar with patents involved and related cases were in a more advanced stage of discovery); *In re Ampicillin Antitrust Litig.*, 315 F. Supp. 317, 319 (J.P.M.L. 1970) (stating that "availability of an experienced and capable judge familiar with the litigation is one of the more important factors in selecting a transferee forum"). The Panel also considers public and judicial policies when determining whether and where to consolidate separate proceedings pursuant to 28 U.S.C. § 1407.

#### **A. Number of Related Cases and Parties Pending in Delaware.**

Of the fourteen actions currently at issue, at least six of the actions are currently pending before Judge Sleet in the District of Delaware. In situations where there are actions currently pending in a district, the Panel has expressed "a strong policy favoring the litigation of related claims in the same tribunal." *In re Koratron*, 302 F. Supp. 239, 243 (J.P.M.L. 1969); *see also In re Mirtazapine Patent Litig.*, 199 F. Supp. 2d 1380 (J.P.M.L. 2002); *In re CBS Color Tube Patent Litig.*, 329 F. Supp. 540 (J.P.M.L. 1971). Given the Panel's strong policy favoring transfer to forums where related cases are currently pending and given that a number of the actions are currently proceeding before Judge Sleet in the District of Delaware, transfer and consolidation in the District of Delaware is appropriate.

## **B. Judge Sleet is Familiar with the Patents.**

More importantly, however, Judge Sleet is familiar with and has some understanding of the complex technology at issue in the Actions. The Panel has repeatedly recognized that “the availability of an experienced and capable judge familiar with the litigation is one of the more important factors in selecting a transferee forum . . . .” *In re Ampicillin Antitrust Litig.*, 315 F. Supp. 317, 319 (J.P.M.L. 1970). This is especially true when dealing with patent litigation involving complex technologies. *In re PharmaStem Therapeutics, Inc. Patent Litig.*, 360 F. Supp. 2d 1362 (J.P.M.L. 2005) (transfer to district judge who was familiar with technologies involved); *In re Mirtazapine Patent Litig.*, 199 F. Supp. 2d 1380 (J.P.M.L. 2002) (ordering transfer to district judge who is familiar with the underlying issues); *In re Panty Hoe Seaming Patent Litig.*, 402 F. Supp. 1401 (J.P.M.L. 1975) (judge’s familiarity with patents in suit cited as only reason for transfer).

Here, each of the six actions currently pending before Judge Sleet assert claims relating to five of the nine patents at issue the Actions. Moreover, the actions pending before Judge Sleet implicate both of the industry standards at issue—ATSC and DOCSIS. As such, Judge Sleet has the opportunity to gain familiarity with a number of the patents at issue in the Actions. Furthermore, Judge Sleet, having presided over a number of complex patent litigation cases in the past, including a multidistrict litigation matter *see* Ex. 35, has demonstrated an understanding and ability to effectively administer this type of complex patent litigation. In fact, Judge Sleet has already indicated an interest in at least coordinating the six Rembrandt actions pending in Delaware. *See* Ex. 19 at 3-4. Thus, consolidation and transfer before Judge Sleet in the District of Delaware is most appropriate.

### C. The Delaware Docket is Less Congested.

Of the three districts in which actions are currently pending, Delaware is the least congested, making it the logical choice for transfer. The Panel often considers the congestion of the proposed docket when determining the appropriate transferee forum pursuant to 28 U.S.C. § 1407. *In re Laughlin Prods., Inc. Patent Litig.*, 240 F. Supp. 2d 1358, 1359 (J.P.M.L. 2003) (transfer to a district that “enjoys general caseload conditions . . . with the present resources to devote time to pretrial matters” is preferable); *In re Compensation of Managerial, Professional & Technical Employees Antitrust Litig.*, 206 F. Supp. 2d 1374 (J.P.M.L. 2002) (transfer to district not already burdened with a complex docket was appropriate). According to the *2005 Annual Report of the Administrative Office of the United States Courts*, the number of civil cases pending in the D. Del. has decreased more than twelve percent from 2005 to 2006. *2005 Annual Report of the Administrative Office of the United States Courts*, Table C.<sup>6</sup> There has also been a corresponding 17.3% decrease in the number of pending cases in the D. Del. in 2006, dropping from 1,733 cases in 2005 to 1,433 cases in 2006. *Federal Judicial Caseload Statistics*, March 31, 2006, Administrative Office of the United States Courts.<sup>7</sup> Furthermore, based on the Federal Docket reports, Judge Sleet currently has 64 patent cases pending, demonstrating his familiarity with patent issues.<sup>8</sup> Overall, it appears that the District of Delaware is less

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<sup>6</sup> The *2005 Annual Report of the Administrative Office of the United States Courts*, Table C provides statistics for the 24-month period ending on March 31, 2006. A copy of which is attached as Exhibit 36.

<sup>7</sup> A copy of which is attached as Exhibit 37.

<sup>8</sup> A copy of the docket for all patent cases pending before Judge Sleet is attached as Exhibit 38.

congested than either the E.D. Tex. or the S.D.N.Y.<sup>9</sup> Thus, it is clear that Judge Sleet in the has the docket, availability and resources necessary to handle this complex patent litigation.

**D. Delaware is Home Jurisdiction to Many Defendants.**

CoxCom, like most of the defendants involved in the Actions,<sup>10</sup> is incorporated in Delaware. As the home jurisdiction for most of the defendants, the D. Del. would be convenient for parties, witnesses and discovery. CoxCom and the other Delaware corporations would be subject to jurisdiction in Delaware, therefore making venue and jurisdiction proper, eliminating the possibility for expensive and time-consuming motions practice. Accordingly, the D. Del. is an appropriate venue for transfer and consolidation.

**E. Policy Considerations Favor Transfer to Delaware.**

Policy considerations also support consolidation in the D. Del. The purpose behind 28 U.S.C. § 1407 is “‘to promote the just and efficient conduct’ of multidistrict actions, in part, by ‘eliminating the potential for conflicting contemporaneous rulings by coordinate district and appellate courts.’” *In re Air Crash off Long Island, New York*, 965 F. Supp. 5, 7 (S.D.N.Y. 1997) (quoting *In re Korean Air Lines Disaster*, 829 F.2d 1171, 1179 (D.C. Cir. 1987)). Cases moving forward in many different courts could subject the parties to differing pre-trial judgments and rulings that could affect the final outcomes of the cases. This could

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<sup>9</sup> See the 2006 Federal Judicial Caseload Statistics for the United States District Court for the District of Delaware, Eastern District of Texas and Southern District of New York, attached as Exhibits 37, 39, & 40, respectively.

<sup>10</sup> The following defendants are incorporated in Delaware: Comcast of Plano, LP; Time Warner Cable, Inc.; Charter Communications, Inc.; Charter Communications Operating, LLC; CSC Holdings, Inc.; Cablevision Systems Corp.; CBS Corporation; NBC Universal, Inc.; Fox Entertainment Group, Inc.; Fox Broadcasting Company; Adelphia Communications Corporation; Century-TCI California, LP, Century-TCI California Communications, LP; Century-TCI Distribution Company, LLC; Century-TCI Holdings, LLC; Parnassos Communications, LP; Parnassos Distribution Company I, LLC; Parnassos Distribution Company II, LLC; Parnassos Holdings, LLC; Parnassos, LP; and Western NY Cablevision, LP.



result in inconsistent claim constructions and evidentiary rulings for identical claims, technology, and systems, which is contrary to the very purposes for which the multidistrict transfer and consolidation statute was created. As such, consolidation in Delaware before Judge Sleet, is preferable as it would serve to promote the interests of judicial economy and efficiency for which the statute was created by eliminating the possibility of inconsistent claim construction, pretrial rulings and duplicative discovery.

#### **IV. CONCLUSION**

For the foregoing reasons, and the reasons to be stated in any reply brief and any oral argument on this matter, CoxCom respectfully requests that the Panel grant its Motion for Transfer and Consolidation and order that the Actions be consolidated and transferred to United States District Court for the District of Delaware before Judge Sleet for coordinated pretrial proceedings.

Respectfully submitted, this the 9<sup>th</sup> day of March 2007.



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**Attorneys for COXCOM, INC.**

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

In re:

Rembrandt Technologies, LP Patent  
Litigation

MDL Docket No.

**MOTION FOR TRANSFER AND CONSOLIDATION OF REMBRANDT  
TECHNOLOGIES PATENT LITIGATION PURSUANT TO 28 U.S.C. § 1407**

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Pursuant to 28 U.S.C. § 1407 and Rule 7.2 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation (the “Panel”), Defendant CoxCom, Inc. (“CoxCom”)<sup>1</sup> moves the Panel for an Order: (1) transferring fourteen (14) related patent infringement actions filed by or against Rembrandt Technologies, LP (“Rembrandt”) (the “Actions”), as well as any actions that may subsequently be filed by or against Rembrandt, asserting similar or related claims to the District of Delaware.<sup>2</sup>

In support of this Motion, CoxCom states the following, as more fully explained in the accompanying Memorandum of Law:

1. This Motion seeks the transfer and consolidation of fourteen related actions for patent infringement filed by Rembrandt against twenty-nine defendants<sup>3</sup> (the “Actions”), ten of which were filed within the last six months. The Actions have been filed in three judicial districts: the Eastern District of Texas; the District of Delaware; and the Southern District of New York.

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<sup>1</sup> CoxCom is a defendant in the recently filed cases of *Rembrandt Technologies, LP v. Charter Communications, Inc., et al.*, No. 2:06-CV-223-TJW (E.D. Tex.) (Marshall Division) and *Rembrandt Technologies, LP v. Charter Communications, Inc., et al.*, No. 2:06-CV-507-TJW (E.D. Tex.) (Marshall Division). CoxCom is also a plaintiff in the recently filed declaratory judgment action of *CoxCom, Inc. v. Rembrandt Technologies, L.P.*, No. 06-721-GMS (D. Del.).

<sup>2</sup> As explained more fully in the accompanying Memorandum of Law, CoxCom moves for consolidation of all 14 related patent infringement actions, but suggests that, because of the illogical way in which the claims were grouped in the 14 cases, the most convenient, just and efficient administration of these actions would be achieved if the transferee court severed from the consolidated action those claims asserting the ‘627 patent for separate treatment and conduct. Claims relating to the ‘627 patent implicate completely different technology and activity (receipt and transmission of broadcast television signals through ATSC-compliant equipment) than the rest of the claims (which implicate high speed internet services through DOCSIS-compliant equipment).

<sup>3</sup> The Actions were initially filed against twenty-nine defendants, but claims asserted against Cox Communications, Inc. and Cox Enterprises, Inc. were voluntarily dismissed. See *Rembrandt Technologies, LP v. Charter Communications, Inc., et al.*, No. 2:06-CV-223-TJW (E.D. Tex.).

2. Pursuant to Rule 7.2(a)(ii) of the Rules of the Panel, a schedule of the Actions is attached hereto as Exhibit A.

3. Plaintiff Rembrandt is a limited partnership organized under the laws of the State of New Jersey with its principal place of business in Bala Cynwyd, Pennsylvania. Rembrandt is a company that invests in patents, but does not practice them. Instead, it acquires rights to patents and sues entities it believes infringe upon those patents.

4. Rembrandt has initiated two waves of patent litigation relating to: (a) the receipt and transmission over the cable television systems of digital terrestrial broadcast signals that comply with the ATSC<sup>4</sup> Digital Television Standard; and (b) the provision of high speed internet services through the use of DOCSIS<sup>5</sup>-compliant equipment.

5. Rembrandt filed the Actions in two waves, apparently as it became the assignee of the various patents in suit. The first wave of litigation (the “Rembrandt I” litigation) includes nine cases against fifteen current defendants spanning three industries (cable, television broadcast, and manufacturing) and asserts infringement of up to five patents. One of the five patents asserted in the Rembrandt I litigation, U.S. Patent No. 5,243,627 (the “‘627 patent”), is asserted against each of the Rembrandt I defendants. The ‘627 patent relates to the receipt and transmission of ATSC-compliant television broadcast signals. The remaining four patents asserted in the Rembrandt I litigation do not relate to the transmission of television signals. Instead, the remaining four patents relate to the provision of high speed internet service through the use of DOCSIS-compliant cable modems and related equipment. The second wave of litigation (the “Rembrandt II” litigation) includes

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<sup>4</sup> “Advanced Television System Committee”

<sup>5</sup> “Data-Over-Cable Service Interface Specifications”

three cases filed by Rembrandt in the Eastern District of Texas against seven cable service providers (all of whom are also defendants in the Rembrandt I litigation), a declaratory judgment action filed by CoxCom in the District of Delaware, and an action filed in the Southern District of New York. The Rembrandt II litigation asserts infringement of five patents relating to the provision of high speed internet service and accuses the same DOCSIS-compliant equipment that is accused in the Rembrandt I litigation.

6. But for the claim of infringement of the '627 patent, all of the claims in the Rembrandt I and Rembrandt II actions relate to the provision of high speed internet and related services through the use of DOCSIS-compliant cable modems and related equipment.

7. For the Panel's convenience, a table identifying the asserted patents, the actions in which they have been asserted and the industry standards that are accused is attached to the Motion as Exhibit B.

8. There have been no substantive orders issued in any of the Actions and no claim construction hearings have been held.

9. In each of the Actions, defendants already have asserted, or may be expected to assert, overlapping defenses that some or all of the various asserted patent claims are not valid and/or not enforceable (i.e., void for inequitable conduct and/or prosecution laches) under the patent laws.

10. In each of the Actions, Rembrandt alleges that the defendants infringe its patents by virtue of their compliance with industry standards, either the ATSC standard with respect to the '627 patent or the DOCSIS standard with respect to the other patents in suit. Therefore, the Actions involve identical infringement allegations regarding the patents and the defendants may be expected to assert overlapping non-infringement defenses.

11. Transfer and consolidation of these Actions is necessary to: (a) eliminate the potential for inconsistent rulings on critical pretrial motions, including but not limited to, claim construction rulings; (b) eliminate the burden of duplicative discovery on common issues; (c) prevent inconsistent pretrial rulings; (d) avoid the unnecessary use of judicial resources; and (e) reduce the overall costs and burdens for all of the parties. Moreover, because the Actions assert infringement based on compliance with industry standards, the effect of having inconsistent rulings regarding industry standards would be significant and deleterious.

12. Due to the many overlapping patents, the Actions in this litigation involve common questions of fact. Each of the Actions involves allegations of infringement, invalidity and enforceability issues common to the overlapping patents. All the Actions can be expected to share factual and legal questions concerning such matters as the technology underlying the patents, the scope and content of the prior art, claim construction, the prosecution histories of the asserted patents and any inequitable conduct and/or unreasonable delays (prosecution laches) committed during their prosecution, and/or issues of infringement involving the patents.

13. The claims relating to the provision of high speed internet service and related services accuse the same DOCSIS-compliant equipment—cable modems and related equipment used by the cable service provider defendants in providing high speed internet service. However, because some of these claims are asserted in the Rembrandt I actions while others are asserted in the Rembrandt II actions and because seven of the cable service provider defendants have been sued in both the Rembrandt I and Rembrandt II actions, it is expected that the cable service provider defendants and the third parties who supply and

manufacture the accused equipment will be subjected to burdensome and inefficient discovery as they are forced to respond to overlapping and duplicative discovery requested in the separate actions.

14. Further, the question of damages will present many other common issues of fact among the Actions. Because Rembrandt is not a competitor of the defendants, Rembrandt can be expected to seek damages in the form of a reasonable royalty, which involves consideration of multiple factors as set forth in the seminal case of *Georgia-Pacific Corp. v. United States Plywood Corp.*, 318 F. Supp. 1116, 1120 (S.D.N.Y. 1970), *modified and aff'd*, 446 F.2d 295 (2d Cir. 1971). Because many of these factors relate to the specific patent or patent owner involved in the case, each patent for which Rembrandt seeks damages will present numerous common factual issues. Moreover, because the claims relating to the provision of high speed internet services straddle both Rembrandt I and Rembrandt II actions, because the claims accuse the same equipment, and because seven of the cable service provider defendants have been sued in both the Rembrandt I and Rembrandt II actions, there is a risk that Rembrandt may receive inflated damages.

15. Of the fourteen actions currently at issue, at least six are pending before Judge Gregory Sleet in the District of Delaware. These six actions assert five of the nine patents at issue in the Actions and implicate both of the accused industry standards. As such, Judge Sleet has the opportunity to gain familiarity with the patents, technology and industry standards at issue.

16. Judge Sleet has presided over a number of complex patent litigation cases in the past and has demonstrated an understanding and ability to effectively administer this type

of complex litigation. Moreover, Judge Sleet has already indicated an interest in at least coordinating the six actions pending in Delaware.

17. Consolidation and transfer before Judge Sleet in the District of Delaware is appropriate.

WHEREFORE CoxCom requests that this Panel enter an order transferring the Actions, as well as any actions that may subsequently be filed by or against Rembrandt asserting similar or related claims to the District of Delaware and consolidating those actions for coordinated pretrial proceedings.

This the 9<sup>th</sup> day of March 2007.

Respectfully Submitted:



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**Attorneys for COXCOM, INC.**



**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

_____	)	
In re:	)	
	)	
Rembrandt Technologies, LP Patent	)	MDL Docket No.
Litigation	)	
_____	)	

**NOTICE OF APPEARANCE OF COUNSEL  
REPRESENTING DEFENDANT COXCOM, INC.**

In compliance with Rule 5.2(c), R.P.J.P.M.L., 199 F.R.D. 425, 431 (2001), the following designated attorney is authorized to receive service of all pleadings, notices, orders, and other papers relating to practice before the Judicial Panel on Multidistrict Litigation on behalf of defendant CoxCom, Inc. I am aware that only one attorney can be designated for each party.

Dated: March 9th, 2007.

By:   
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**Attorney for Defendant COXCOM,  
INC.**



**Exhibit A**  
**SCHEDULE OF ACTIONS**

NO.	NAME OF ACTION	DISTRICT COURT/ DIVISION	DATE ACTION FILED	CIVIL ACTION NUMBER	JUDGE ASSIGNED
1.	Rembrandt Technologies, LP v. Sharp Corporation and Sharp Electronics Corporation	U.S.D.C., Eastern District of Texas/Marshall Division	02/03/06	2:06-cv-047	T. John Ward
2.	Rembrandt Technologies, LP v. Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano, LP	U.S.D.C., Eastern District of Texas/Marshall Division	09/16/05	2:05-cv-443	T. John Ward
3.	Rembrandt Technologies, LP v. Comcast Corporation; Comcast Cable Communications, LLC; and Comcast of Plano, LP	U.S.D.C., Eastern District of Texas/Marshall Division	11/30/06	2:06-cv-506	T. John Ward
4.	Rembrandt Technologies, LP v. Time Warner Cable, Inc.	U.S.D.C., Eastern District of Texas/Marshall Division	06/01/06	2:06-cv-224	T. John Ward
5.	Rembrandt Technologies, LP v. Time Warner Cable, Inc.	U.S.D.C., Eastern District of Texas/Marshall Division	09/13/06	2:06-cv-369	T. John Ward
6.	Rembrandt Technologies, LP v. Charter Communications, Inc.; Charter Communications Operating, LLC; Cox Communications, Inc., Cox Enterprises, Inc.; CoxCom, Inc.; CSC Holdings, Inc., and Cablevision Systems Corporation	U.S.D.C., Eastern District of Texas/Marshall Division	06/01/06	2:06-cv-223	T. John Ward
7.	Rembrandt Technologies, LP v. Charter Communications, Inc.; Charter Communications Operating, LLC, and CoxCom, Inc.	U.S.D.C., Eastern District of Texas/Marshall Division	11/30/06	2:06-cv-507	T. John Ward

NO.	NAME OF ACTION	DISTRICT COURT/ DIVISION	DATE ACTION FILED	CIVIL ACTION NUMBER	JUDGE ASSIGNED
8.	Rembrandt Technologies, LP v. Cablevision Systems Corporation and CSC Holdings, Inc.	U.S.D.C., District of Delaware	10/13/06	1:06-cv-635	Gregory M. Sleet
9.	CoxCom, Inc. v. Rembrandt Technologies, LP	U.S.D.C., District of Delaware	11/30/06	1:06-cv-721	Gregory M. Sleet
10	Rembrandt Technologies, LP v. CBS Corporation	U.S.D.C., District of Delaware	12/01/06	1:06-cv-727	Gregory M. Sleet
11	Rembrandt Technologies, LP v. NBC Universal, Inc.	U.S.D.C., District of Delaware	12/01/06	1:06-cv-729	Gregory M. Sleet
12	Rembrandt Technologies, LP v. ABC, Inc.	U.S.D.C., District of Delaware	12/01/06	1:06-cv-730	Gregory M. Sleet
13	Rembrandt Technologies, LP v. Fox Entertainment Group, Inc. and Fox Broadcasting Company	U.S.D.C., District of Delaware	12/01/06	1:06-cv-731	Gregory M. Sleet
14	In Re Adelphia Communication Corp. Rembrandt Technologies, LP v. Adelphia Communications Corp. Corporation, Century-TCI California Communications, LP, Century- TCI Distribution Company, LLC, Century- TCI Holdings, LLC, Parnassos, L.P., Parnassos Communications, LP, Parnassos Distribution Company I, LLC, Parnassos Distribution Company II, LLC, Parnassos Holdings, LLC, Western NY Cablevision, LP	U.S. Bankr. Court and U.S.D.C., Southern District of New York	01/11/07	Bankr: 02-41729 U.S.D.C.: 1:07-cv-214	Bankr: Robert E. Gerber U.S.D.C.: William H. Pauley III

EXHIBIT B  
Rembrandt Litigation

Patent	Rembrandt v. Sharp (2:06-cv-047- TJW)	Rembrandt v. Comcast (2:05-cv-443- TJW)	Rembrandt v. Comcast (2:06-cv-506- TJW)	Rembrandt v. Time Warner (2:06-cv-224- TJW)	Rembrandt v. Time Warner (2:06-cv-369- TJW)	Rembrandt v. Charter, <i>et al.</i> (2:06-cv-223- TJW)	Rembrandt v. Charter, <i>et al.</i> (2:06-cv-507- TJW)	Rembrandt v. Cablevision (1:06-cv-635- GMS)	CoxCom v. Rembrandt (1:06-cv-721- GMS)	Rembrandt v. CBS (1:06-cv-727- GMS)	Rembrandt v. NBC (1:06-cv-729- GMS)	Rembrandt v. ABC (1:06-cv-730- GMS)	Rembrandt v. Fox (1:06-cv-731- GMS)	Rembrandt v. Adelphia <i>et al.</i> , (1:07-cv-214- WHP)
‘627 (5,243,627)	XXX	XXX		XXX		XXX		XXX		XXX	XXX	XXX	XXX	
‘631 (5,852,631)		XXX		XXX		XXX		XXX						
‘858 (5,719,858)		XXX		XXX		XXX		XXX						
‘819 (4,937,819)		XXX		XXX		XXX		XXX						
‘761 (5,710,761)			XXX		XXX		XXX							XXX
‘234 (5,778,234)			XXX		XXX		XXX							XXX
‘159 (6,131,159)			XXX		XXX		XXX							XXX
‘444 (6,950,444)			XXX		XXX		XXX							XXX
‘903 (5,008,903)			XXX		XXX		XXX	XXX	XXX					

**Legend:**  
Blue cases are pending in the E.D. Tex.  
Gold cases are pending in the D. Del.  
Purple case is pending in the S.D.N.Y.  
Green patents implicate the ATSC industry standard.  
Red patents implicate the DOCSIS industry standard.  
Shaded columns indicate the Rembrandt I cases.  
Clear columns indicate the Rembrandt II cases.